LOCAL CIVIL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

TABLE OF CONTENTS

CHAPTER III
PLEADINGS AND MOTIONS

CHAPTER VI
TRIALS

CHAPTER VII
JUDGMENT

CHAPTER VIII
PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

CHAPTER IX
SPECIAL PROCEEDINGS

CHAPTER X
DISTRICT COURT AND OFFICE OF THE CLERK

CHAPTER XI
GENERAL PROVISIONS

SUPPLEMENTAL LOCAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS

APPENDICES

HISTORICAL NOTES

LR 1.1, formerly Local Rule 1:1.1 (effective 1/1/92); renumbered 4/7/97.

LR 1.2, formerly Local Rule 1:1.2 (effective 1/1/92); renumbered 4/7/97.

LR 3.1, formerly Local Rules 1:2.4 (effective 1/1/92; revised 12/15/92, 3/3/93, 5/5/93, 5/9/95), 6:1.1 (effective 1/1/92), 6:2.4 (effective 1/1/92), and 6:2.5 (effective 1/1/92; revised 3/3/93, 5/9/95); revised and renumbered 4/7/97; revised 1/15/98; 08/10/98.

LR 3.2, formerly Local Rule 6:1.2 (effective 1/1/92; revised 5/9/95); renumbered 4/7/97.

LR 3.3, formerly Local Rule 6:1.3 (effective 1/1/92; revised 7/10/95); revised and renumbered 4/7/97; revised 1/15/98.

LR 3.4, formerly Local Rule 6:1.4 (effective 1/1/92; revised 7/10/95, 6/3/96); revised and renumbered 4/7/97.

LR 3.5, formerly Local Rule 6:1.5 (effective 1/1/92); renumbered 4/7/97.

LR 3.6, formerly Local Rule 6:2.2 (effective 1/1/92); renumbered 4/7/97.

LR 3.7, formerly Local Rule 6:2.3 (effective 1/1/92); renumbered 4/7/97.

LR 3.8, formerly Local Rule 2:1.2 (effective 1/1/92; revised 7/10/95); renumbered 4/7/97.

LR 3.9, formerly Local Rule 6:2.1 (effective 1/1/92); renumbered 4/7/97.

LR 3.10, formerly Local Rule 6:2.7 (effective 1/1/92); renumbered 4/7/97.

LR 3.11, formerly Local Rule 6:2.6 (effective 1/1/92); renumbered 4/7/97.

LR 3.12, formerly Local Rule 2:1.5 (effective 1/1/92); renumbered 4/7/97.

LR 3.13, formerly Local Rules 2:1.1 (effective 1/1/92) and 8:3.1 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97.

LR 3.14, formerly Local Rule 6:1.6 (effective 1/1/92); revised and renumbered 4/7/97.

LR 3.15, formerly Local Rule 5:1.4 (effective 1/1/92; revised 6/9/92); renumbered 4/7/97; revised 11/5/97.

LR 4.1, formerly Local Rule 2:1.6 (effective 1/1/92; revised 12/1/93); renumbered 4/7/97.

LR 4.2, effective 8/10/98.

LR 5.1, formerly Local Rule 1:2.2 (effective 1/1/92); renumbered 4/7/97; revised 11/5/97.

HISTORICAL NOTES (Continued)

LR 5.2, formerly Local Rule 1:2.6 (effective 10/2/95); renumbered 4/7/97.

LR 5.3, formerly Local Rule 2:4.1 (effective 1/1/92; revised 8/10/93); renumbered 4/7/97.

LR 7.1, formerly Local Rules 2:2.1 (effective 1/1/92) and 8:8.1 (effective 1/1/92; revised 6/9/92, 12/15/92); renumbered 4/7/97; revised 1/15/98.

LR 7.2, formerly Local Rule 8:8.2 (effective 1/1/92; revised 12/15/92); renumbered 4/7/97.

LR 7.3, formerly Local Rule 8:8.3 (effective 1/1/92; revised 12/15/92); renumbered 4/7/97; revised 1/15/98.

LR 9.1, formerly Local Rule 2:2.2 (effective 1/1/92); renumbered 4/7/97.

LR 10.1, formerly Local Rule 1:2.1 (effective 1/1/92; revised 6/9/92); renumbered 4/7/97.

LR 10.2, formerly Local Rule 1:2.3 (effective 1/1/92); renumbered 4/7/97.

LR 16.1, formerly Local Rules 8:1.1 (effective 1/1/92; revised 6/9/92), 8:1.2 (effective 1/1/92; revised 12/15/92, 8/10/93, 12/1/93), 8:1.3 (effective 1/1/92) and 8:1.4 (effective 1/1/92); renumbered 4/7/97.

LR 16.2, formerly Local Rules 8:2.1 (effective 1/1/92; revised 12/15/92) and 8:2.2 (effective 1/1/92); renumbered 4/7/97.

LR 16.3, formerly Local Rules 8:4.1 (effective 1/1/92; revised 12/15/92, 12/1/93), 8:4.2 (effective 1/1/92; revised 12/15/92, 12/1/93, 5/9/95), 2:1.3 (effective 1/1/92), 8:5.1 (effective 1/1/92; revised 12/15/92); 8:5.2 (effective 1/1/92; revised 12/15/92); and 2:4.3 (effective 1/1/92); renumbered 4/7/97; revised 11/5/97.

LR 16.4, formerly Local Rules 7:1.1 (effective 1/1/92), 7:1.2 (effective 1/1/92), 7:1.3 (effective 1/1/92), 7:1.4 (effective 1/1/92) and 8:6.1 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98.

LR 16.5, formerly Local Rules 7:2.1 (effective 1/1/92), 7:2.2 (effective 1/1/92), 7:2.3 (effective 1/1/92), 7:2.4 (effective 1/1/92), 7:2.5 (effective 1/1/92; revised 6/9/92), 7:2.6 (effective 1/1/92), 7:2.7 (effective 1/1/92; revised 6/9/92), and 7:2.8 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98.

LR 16.6, formerly Local Rules 7:3.1 (effective 1/1/92), 7:3.2 (effective 1/1/92), 7:3.3 (effective 1/1/92; revised 6/9/92, 7/13/93), 7:3.4 (effective 1/1/92), 7:3.5 (effective 1/1/92, revised 6/9/92, 7/13/93), 7:3.6 (effective 1/1/92), 7:3.7 (effective 1/1/92; revised 6/9/92), and 7:3.8 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98.

LR 16.7, formerly Local Rules 7:4.1 (effective 1/1/92), 7:4.2 (effective 1/1/92), 7:4.3 (effective 1/1/92, revised 7/13/93), 7:4.4 (effective 1/1/92), 7:4.5 (effective 1/1/92), 7:4.6 (effective 1/1/92), 7:4.7 (effective 1/1/92), 7:4.8 (effective 1/1/92), 7:4.9 (effective 1/1/92) and 7:4.10 (effective 1/1/92); renumbered 4/7/97.

HISTORICAL NOTES (Continued)

LR 16.8, formerly Local Rules 7:5.1 (effective 1/1/92), 7:5.2 (effective 1/1/92), and 7:5.3 (effective 1/1/92); renumbered 4/7/97.

LR 16.9, formerly Local Rules 7:6.1 (effective 1/1/92), 7:6.2 (effective 1/1/92), and 7:6.3 (effective 1/1/92); renumbered 4/7/97.

LR 16.10, formerly Local Rule 7:7.1 (effective 1/1/92); renumbered 4/7/97.

LR 23.1, formerly Local Rule 2:3.1 (effective 1/1/92; revised 8/10/93); renumbered 4/7/97; revised 1/15/98.

LR 24.1, formerly Local Rule 2:3.2 (effective 1/1/92); revised and renumbered 4/7/97.

LR 26.1, formerly Local Rule 8:7.1 (effective 1/1/92; revised 12/1/93); renumbered 4/7/97.

LR 26.2, formerly Local Rule 8:7.2 (effective 1/1/92; revised 12/15/92, 12/1/93, 5/9/95); renumbered 4/7/97.

LR 30.1, formerly Local Rule 2:4.7 (effective 1/1/92); renumbered 4/7/97; revised 7/9/97.

LR 32.1, formerly Local Rule 2:4.2 (effective 1/1/92; revised 8/10/93, 12/1/93); renumbered 4/7/97.

LR 33.1, formerly Local Rules 2:4.4 (effective 1/1/92) and 8:7.3 (effective 1/1/92); revised and renumbered 4/7/97.

LR 36.1, formerly Local Rule 2:4.4 (effective 1/1/92); revised and renumbered 4/7/97.

LR 37.1, formerly Local Rule 8:7.4 (effective 1/1/92; revised 6/9/92, 12/1/93); renumbered 4/7/97; revised 1/15/98.

LR 37.2, formerly Local Rule 2:4.6 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98.

LR 38.1, formerly Local Rule 2:5.1 (effective 1/1/92); renumbered 4/7/97.

LR 39.1, formerly Local Rule 1:3.8 (effective 1/1/92); revised and renumbered 4/7/97.

LR 39.2, formerly Local Rule 2:4.3 (effective 1/1/92); revised and renumbered 4/7/97; revised 1/15/98.

LR 47.1, formerly Local Rule 1:3.1 (effective 1/1/92); renumbered 4/7/97.

LR 47.2, formerly Local Rule 1:3.3 (effective 1/1/92); renumbered 4/7/97.

LR 47.3, formerly Local Rule 1:3.4 (effective 1/1/92); renumbered 4/7/97.

LR 47.4, formerly Local Rule 1:3.5 (effective 1/1/92); revised and renumbered 4/7/97.

LR 48.1, formerly Local Rule 2:5.2 (effective 1/1/92); renumbered 4/7/97.

HISTORICAL NOTES (Continued)

LR 48.2, formerly Local Rule 1:3.6 (effective 1/1/92); renumbered 4/7/97.

LR 48.3, formerly Local Rule 1:3.7 (effective 1/1/92); renumbered 4/7/97.

LR 54.1, formerly Local Rule 1:3.2 (effective 1/1/92); renumbered 4/7/97.

LR 65.1.1, formerly Local Rule 2:6.1 (effective 1/1/92); renumbered 4/7/97.

LR 66.1, formerly Local Rule 2:6.2 (effective 1/1/92); renumbered 4/7/97.

LR 67.1, formerly Local Rule 1:6.1 (effective 1/1/92; revised 6/9/92, 8/10/93); revised and renumbered 4/7/97.

LR 67.2, formerly Local Rule 1:6.2 (effective 1/1/92; revised 6/9/92, 8/10/93); renumbered 4/7/97.

LR 69.1, formerly Local Rule 2:1.4 (effective 1/1/92); renumbered 4/7/97.

LR 72.1, formerly Local Rule 5:1.1 (effective 1/1/92; revised 3/3/93; 8/10/93); revised and renumbered 4/7/97; revised 1/15/98.

LR 72.2, formerly Local Rule 5:1.2 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97.

LR 72.3, formerly Local Rule 5:3.1 (effective 1/1/92; revised 8/10/92); revised and renumbered 4/7/97.

LR 72.4, formerly Local Rule 5:3.7 (effective 1/1/92); revised and renumbered 4/7/97.

LR 73.1, formerly Local Rule 5:2.1 (effective 1/1/92; revised 7/1/93); renumbered 4/7/97.

LR 73.2, formerly Local Rule 5:2.2 (effective 1/1/92); renumbered 4/7/97.

LR 77.1, formerly Local Rule 1:4.1 (effective 1/1/92); renumbered 4/7/97.

LR 79.1, formerly Local Rule 1:2.5 (effective 1/1/92); renumbered 4/7/97.

LR 80.1, formerly Local Rule 6:2.8 (effective 1/1/92); renumbered 4/7/97.

LR 83.1, formerly Local Rule 1:3.9 (effective 1/1/92); renumbered 4/7/97.

LR 83.2, formerly Local Rule 1:4.2 (effective 1/1/92); renumbered 4/7/97.

LR 83.3, formerly Local Rule 1:4.3 (effective 1/1/92); renumbered 4/7/97; revised 4/6/98.

LR 83.4, formerly Local Rule 1:4.4 (effective 1/1/92); renumbered 4/7/97.

LR 83.5, formerly Local Rule 1:5.1 (effective 1/1/92); revised and renumbered 4/7/97; revised 1/15/98.

HISTORICAL NOTES (Continued)

LR 83.6, formerly Local Rule 1:5.3 (effective 1/1/92); renumbered 4/7/97.

LR 83.7, formerly Local Rule 1:5.2 (effective 1/1/92); renumbered 4/7/97; revised 8/10/98.

LR 83.8, formerly Local Rule 1:5.4 (effective 5/9/95); renumbered 4/7/97.

LSuppR C.1, formerly Local Rule 2:7.5 (effective 1/1/92); revised and renumbered 4/7/97.

LSuppR C.2, formerly Local Rule 2:7.6 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.1, formerly Local Rule 2:7.1 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.2, formerly Local Rule 2:7.2 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.3, formerly Local Rule 2:7.3 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.4, formerly Local Rule 2:7.4 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.5, formerly Local Rule 2:7.5 (effective 1/1/92); revised and renumbered 4/7/97.

LSuppR E.6, formerly Local Rule 2:7.7 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.7, formerly Local Rule 2:7.9 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.8, formerly Local Rule 2:7.10 (effective 1/1/92); renumbered 4/7/97.

LSuppR F.1, formerly Local Rule 2:7.11 (effective 1/1/92); renumbered 4/7/97.

LSuppR F.2, formerly Local Rule 2:7.12 (effective 1/1/92); renumbered 4/7/97.

LOCAL CIVIL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CHAPTER I
SCOPE OF RULES

Rule 1.1 Scope and Citation

(a) Scope of the Rules. Pursuant to Fed. R.Civ. P. 83, the following Local Rules for the United States District Court, Northern District of Ohio, will hereafter control the conduct of civil proceedings in this Court. Nothing in these Rules shall be construed in a manner inconsistent with the Federal Rules of Civil Procedure.

(b) Citation. These Rules shall be cited as "Local Rules" or abbreviated as "LR". The Supplemental Local Rules for Certain Admiralty and Maritime Claims shall be cited as "Local Supplemental Rule" or abbreviated as "LSuppR".

(c) Effective Date. These Rules shall apply to all cases pending in this district on or after the effective date of January 1, 1992, except as modified by the provisions of Local Rule 16.1(c).

(d) Construction of Rules. These Rules shall be construed to achieve an orderly administration of the business of this Court; to govern the practice of attorneys before this Court; and to secure the just, speedy and inexpensive determination of all litigation coming before this Court.

Rule 1.2 Definitions

(a) "United States Attorney," unless otherwise indicated, shall also mean the Assistant United States Attorneys and Department of Justice Attorneys assigned to a case.

(b) Reference in these Rules to an "attorney" or "counsel" for a party is in no way intended to preclude a party from proceeding pro se, in which case reference to attorney or counsel applies to the pro se litigant.

(c) "Clerk" shall be interpreted to include the Clerk of the District Court and any Deputy Clerk. The Clerk of the Bankruptcy Court will be referred to as the "Bankruptcy Clerk."

(d) "Judicial Officer" is either a United States District Judge or a United States Magistrate Judge.

(e) "Judge" shall be interpreted to mean all Judicial Officers, including District Judges and Magistrate Judges, unless specifically limited or the subject is directed to one of these Judicial Officers.

(f) "Court" means any United States District Judge, United States Magistrate Judge, or Clerk of Court personnel to whom responsibility for a particular action or decision has been delegated by the Judges of the United States District Court for the Northern District of Ohio.

CHAPTER II
COMMENCEMENT OF ACTION

Rule 3.1 Assignment of Cases; Related Cases, Refiled, Dismissed and Remanded Cases

(a) Assignment. Subject to the latter provisions of this Rule, upon filing, each civil case shall be assigned by random draw to a District Judge. He or she shall continue in the case or matter until its final disposition. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

With regard to all civil proceedings in the Eastern Division of the Court, after each case is assigned by random draw to a District Judge, the Clerk shall immediately assign a Magistrate Judge to the case in accordance with orders of the Court.

(b) Reassignment. Cases shall be assigned other than by random draw only in the instances set forth in this paragraph. Such assignments shall be made by the Clerk in accordance with these Rules. When an additional assignment is thus made to a District Judge under any of the following sub-paragraphs, an electronic card for said District Judge shall be removed from the deck from the same category from which the case would have been drawn.

(1) Disqualification. Should a District Judge be disqualified from hearing a case assigned to him or her, the case shall be reassigned by random draw in the respective division.

(2) Subsequent Proceedings. Subsequent proceedings in civil cases shall be assigned to the District Judge who heard the original case.

(3) Related Cases. A case may be re-assigned as related to an earlier assigned case with the concurrence of both the transferee and the transferor District Judges, with or without a motion by counsel.

(4) Refiled, Dismissed and Remanded Cases. If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same District Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such case to the attention of the Court by responding to the questions included on the Civil Cover Sheet.

When it becomes apparent to the District Judge to whom a case is assigned that the case was previously filed in this Court and assigned to another District Judge and was discontinued, dismissed without prejudice or remanded to a State Court, the two District Judges shall sign an order reassigning the case to the District Judge who had been assigned the earlier case.

(5) Transfer of Civil Actions. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

Rule 3.2 Procedure for Assignment of Cases

The procedure for the assignment of cases shall be the same for the Eastern and Western Divisions. Each of the District Judges in the Eastern and Western Divisions shall be assigned an equal share of the cases filed in his or her division except that the Chief Judge shall be assigned a one-half (50 percent) share. This shall apply to civil cases and to the miscellaneous docket.

Rule 3.3 Categories of Civil Cases

Depending upon the nature of the claim (principal claim if more than one claim is in the complaint), each case shall be designated as within one of the following categories:

1. Regular Civil
2. Administrative Review/Social Security
3. Death Penalty Habeas Corpus

Immediately upon filing, each civil case shall be assigned to the appropriate category by the Clerk's Office.

Rule 3.4 Preparation of Assignment Decks

For each of the Eastern Division Offices in Akron, Cleveland and Youngstown, the Clerk of Court shall cause to be created a separate electronic deck of case assignment cards for Civil Category 1. For all of the Eastern Division Offices, the Clerk of Court shall cause to be created a combined electronic deck of case assignment cards for Civil Category 2.

For the Western Division, the Clerk of Court shall cause to be created a separate electronic deck of case assignment cards for Civil Categories 1 and 2.

For all offices in both the Eastern and Western Divisions, the Clerk of Court shall cause to be created a single electronic deck of case assignment cards for Civil Category 3.

The electronic cards comprising each deck category will contain the category number and the name of a District Judge. The name of each District Judge shall appear on that number of cards in the electronic deck that corresponds to the share of cases assigned to that District Judge pursuant to Local Rule 3.2.

The cards making up a deck shall be electronically shuffled so that the sequence will be entirely by chance, and the cards shall be concealed so that the name of the District Judge will not be known until the card is drawn. Relying upon the indicated category of the case and selecting the appropriate deck depending upon the venue of the case (See Local Rule 3.8(a), the Assignment Clerk shall randomly select a card from the deck of that category and venue. The case shall be assigned to the District Judge whose name appears on the drawn card. New decks of cards shall be prepared by the Clerk from time to time, as herein described, unless otherwise instructed by the Court.

In the Western Division, decks for each category of civil cases shall be replenished as soon as the decks are depleted.

For the Eastern Division, decks for Civil Category 1 shall be replenished only after all Civil Category 1 decks for all offices in the Eastern Division are depleted. Thus, (1) if the Youngstown deck is depleted first, Youngstown cases will thereafter be assigned to District Judges from the Akron deck until that deck is depleted. When the Akron deck is depleted, both Youngstown and Akron cases will be assigned to District Judges from the Cleveland deck. (2) If the Akron deck is depleted first, Akron cases will thereafter be assigned to District Judges from the Youngstown deck until that deck is depleted. When the Youngstown deck is depleted, both Akron and Youngstown cases will be assigned to District Judges from the Cleveland deck. (3) If the Cleveland deck is depleted first, Cleveland cases will thereafter be assigned to District Judges from the Akron deck until that deck is depleted.

When the Akron deck is depleted, both Cleveland and Akron cases will be assigned to District Judges from the Youngstown deck.

When all of the Civil Category 1 decks in the Eastern Division are depleted, all will be replenished and the assignment system herein described will start over.

The Assignment Clerk shall mark, on the first document of the case, the next consecutive number and the name of the District Judge to whom the case is assigned. A record of all assignments made shall be kept by said Clerk. Reports of case assignments shall be made available to the Court upon request.

Rule 3.5 Duties of the Clerk as to Case Assignments

The random electronic shuffling of the electronic assignment cards and the concealment of these cards in separate decks shall be administered by the Clerk. The Clerk shall not reveal the sequence of the electronic cards to anyone, unless ordered to do so in the presence of the District Judges at a regularly scheduled meeting.

Rule 3.6 Assignments to Senior Judges

The Chief Judge shall, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, assign to each Senior Judge a substantial amount of the business of the District Court during the period in which each Senior Judge is duly authorized or designated to hear cases.

Rule 3.7 Reassignment of Matters to Active Judges

All newly filed motions or other matters requiring action by the Court in cases which were originally assigned to District Judges who are no longer serving on the District Court shall be reassigned by random draw to an active District Judge.

Rule 3.8 Venue of Actions Within the District

(a) The Divisions of the Court. The Northern District of Ohio is divided into two divisions.

The Eastern Division consists of the following counties, with three divisional offices, as follows:

Akron: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas, and Wayne.

Cleveland: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina, and Richland.

Youngstown: Columbiana, Mahoning, and Trumbull.

The Western Division consists of the following counties:

Toledo: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot.

(b) Resident Defendant. Except as otherwise provided by law, all actions brought against a resident of a county within the Eastern Division shall be filed at any of the offices within the Eastern Division. All actions brought against a resident of a county in the Western Division shall be filed at the divisional office in Toledo, Ohio. For the purposes of this Rule, a defendant that is a corporation shall be deemed to reside in any county in the district in which it is subject to personal jurisdiction at the time the action is commenced, and if there is no such county, the corporation shall be deemed to reside in the county within which it has the most significant contacts.

(c) Multiple Defendants. Except as otherwise provided by law, actions brought against persons who are residents of counties in more than one division or divisional office area shall be filed in the divisional office containing the county in which the claim arose. Except as otherwise provided by law, if the claim arose outside the district and no plaintiff resides in the district, the action may be filed in the divisional office containing any county in which any defendant resides.

Rule 3.9 Place of Holding Court

The Chief Judge, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, may designate and assign any District Judge of the District to any place of holding court or division within the District whenever the business of such place or division so requires.

Rule 3.10 Miscellaneous Docket

Each District Judge in the Eastern and Western Divisions shall take charge of the miscellaneous docket in his or her division for a period of time and in such order or rotation as recommended by the appropriate Committee of the Court and approved by a majority of the active District Judges. A District Judge in charge of the miscellaneous docket who becomes unavailable shall arrange for another District Judge to take charge of the docket and notify the Clerk of Court in writing of the name of the District Judge who will take charge of the docket while the District Judge is unavailable. The miscellaneous docket shall include the following matters:

(a) Supervision of the Grand Jury and all matters, except for the impaneling, arising therefrom;

(b) Responsibility for all matters relating to naturalization;

(c) Admission of attorneys to the Bar of this Court; and

(d) Consideration of all other miscellaneous matters not otherwise provided for in these Rules.

Rule 3.11 Unavailability of District Judge -- Urgent Cases

Should it appear that any matter requires urgent and immediate attention and the District Judge to whom said case has been assigned, or in the usual course would be assigned, is not or will not be available and said District Judge has not arranged for an alternate to handle such matters in his or her absence, then the Clerk of Court shall refer the matter to the District Judge on miscellaneous duty rotation, if available, or to the next available District Judge on regular, active duty who has precedence.

Rule 3.12 Fees and Deposits for Costs

Upon the commencement in this Court of any action, whether by original process, removal or otherwise, except when not required by law, fees and deposits for costs shall be paid as follows:

(a) Fees shall be paid to the Clerk in an amount and as provided in 28 U.S.C. § 1914 or any amendment thereto; and

(b) Deposit for costs shall be paid to the Marshal in an amount deemed sufficient by the Marshal to cover fees for services described in 28 U.S.C. § 1921(a) or any amendment thereto.

Rule 3.13 Commencement of Action

(a) Civil Cover Sheet. The Clerk is authorized and instructed to require a complete and executed AO Form JS 44, Civil Cover Sheet, which shall accompany each civil case to be filed, as well as a Case Information Statement, as described in subsection (b). (See Appendices A and B.)

(b) Case Information Statement. The initial document filed by each party shall be accompanied by a Case Information Statement (CIS) which shall be in the form prescribed by the Court, and which shall be served on each other party to the litigation. (See Appendix B.) In an action removed from state court, the defendant's CIS shall be filed with the removal petition, and the plaintiff's CIS within ten (10) days thereafter. The CIS shall not be admissible in evidence and shall not be deemed to constitute a jurisdictional requirement.

Rule 3.14 Procedure as to Initial Papers

All initial papers in civil cases shall be first filed in the Office of the Clerk, who shall stamp on the complaint, petition, or other initial paper of every case to be filed the number of the case and the name of the District Judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is commenced.

Rule 3.15 In Forma Pauperis Cases

Applications to proceed in forma pauperis shall be given a civil docket number and assigned in accordance with Local Rule 3.1. Determinations on such applications may be made by either the randomly assigned district judge or magistrate judge.

Rule 4.1 Service of Actions Filed In Forma Pauperis

(a) Service. Where a plaintiff has been granted leave to proceed in form a pauperis, the U.S. Marshal shall be directed to serve the summons and complaint, pursuant to 28 U.S.C. § 1915(c), after the Court has first reviewed the complaint to determine whether sua sponte dismissal under section 1915(d) is appropriate.

(b) Waiver of Service. The provision for waiver of service in Fed. R.Civ. P. 4(d) shall not apply in cases filed by plaintiffs proceeding in forma pauperis. In all such cases, the U.S. Marshal shall serve the summons and complaint upon the Court's direction to do so.

Effective 8/10/98. *See* Historical Notes for full revision history.

Rule 4.2 Service of Process

Fed.R.Civ.P. 4 provides for alternative methods of serving the summons and complaint in a civil action. Methods established by the Rule itself are preferred, particularly ***Rule 4(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive,*** and should be attempted before service is attempted pursuant to the Ohio mail methods authorized by Fed.R.Civ.P. 4(e)(1).

Fed.R.Civ.P. 4(e)(1) authorizes service pursuant to the law of the state in which the district court is located for a summons or other like process upon the defendant in an action brought in the courts of general jurisdiction of Ohio. Rules 4.1 and 4.3(B) of the Ohio Rules of Civil Procedure provides for service by the Clerk mailing the summons and complaint by certified mail. An attorney who attempts to effect service in this Court pursuant to the law of Ohio must comply with the following procedure:

(a) Plaintiff's attorney shall address the envelope to the person to be served, and shall place a copy of the summons and complaint or other document to be served in the envelope. Plaintiff's attorney shall also affix to the back of the envelope the domestic return receipt card, PS Form 3811, July 1983, (the "green card") showing the Name of Sender as "Clerk, United States District Court, Northern District of Ohio" at the appropriate address with the certified mail number affixed to the front of the envelope. The instructions to the delivering postal employee shall require the employee to show to whom delivered, date of delivery, and address where delivered. Plaintiff's attorney shall affix adequate postage to the envelope and deliver it to the Clerk who shall cause it to be mailed.

(b) The Clerk shall enter the fact of mailing on the appearance docket and make a similar entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, the Clerk should forthwith notify, by mail, the attorney of record or if there is no attorney of record, the party at whose instance process was issued. The Clerk shall enter the fact of notification on the appearance docket and shall file the return receipt or returned envelope in the records of the action. (Rule 4.1, Ohio Rules of Civil Procedure.)

(c) If service of process is refused or was unclaimed, the Clerk shall forthwith notify, by mail, the attorney of record or if there is no attorney of record, the party at whose instance process was issued. If the attorney, or serving party, after notification by the Clerk, files with the Clerk a written request for ordinary mail service, accompanied by an envelope containing the summons and complaint or other document to be served, with adequate postage affixed to the envelope, the Clerk shall send the envelope to the defendant at the address set forth in the caption of the

Effective 8/10/98. *See* Historical Notes for full revision history.

complaint, or at the address set forth in written instructions to the Clerk. The attorney or party at whose instance the mailing is sent shall also prepare for the Clerk's use a certificate of mailing which shall be signed by the Clerk or a Deputy Clerk and filed at the time of mailing. The attorney or party at whose instance the mailing is sent shall also endorse the answer day (23 days after the date of mailing shown on the certificate of mailing) on the summons sent by ordinary mail.

If the ordinary mail is returned undelivered, the Clerk shall forthwith notify the attorney, or serving party, by mail.

The attorney of record or the serving party shall be responsible for determining if service has been made under the provisions of Rule 4 of the Ohio Rules of Civil Procedure and this Local Rule.

This Local Rule is confined to the domestic service of the summons and complaint in a civil action in this Court by certified mail or ordinary mail, pursuant to the law of Ohio, and is not intended to affect the procedure for other methods of service permitted by the Fed.R.Civ.P. or the Ohio Rules of Civil Procedure.

Rule 5.1 Filing by Facsimile or Electronic Means

(a) The Clerk's Office will not accept any facsimile transmission unless ordered by the Court.

(b) Pursuant to Fed. R. Civ. P. 5(e), the Clerk's Office will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes, if ordered by the Court. A paper filed by electronic means in compliance with this Rule constitutes a written paper for the purposes of applying these Rules and the Federal Rules of Civil Procedure.

Rule 5.2 Filing Documents Under Seal

No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents. If no statute, rule, or prior order authorizes filing under seal, the document will not be filed under seal.

Materials presented as sealed documents shall be in an envelope which shows the citation of the statute or rule or the filing date of the court order authorizing the sealing, and the name, address and telephone number of the person filing the documents.

If the sealing of the document purports to be authorized by court order, the person filing the documents shall include a copy of the order in the envelope. If the order does not authorize the filing under seal, or if no order is provided, the Clerk will unseal the documents before filing them. Before unsealing the documents, the Clerk will notify the person whose name and telephone number appears on the envelope in person (if he or she is present at the time of filing) or by telephone. The filer may withdraw the documents before 4:00 p.m. the day the Clerk notifies him or her of the defect. If not withdrawn, the documents will be unsealed and filed.

New cases submitted for filing without a signed sealing order will be assigned a new case number, District Judge and Magistrate Judge. The Clerk, without further processing, will send the file to the assigned District Judge for a sealing order. If a sealing order is signed, the Clerk will enter as much information as is permitted by the sealing order into the system to open and identify the case.

Thirty days after the termination of the case or any appeal, whichever is later, sealed documents and cases will be unsealed pursuant to court order, unless either a motion to continue the seal for a specified period of time or a motion to withdraw the documents is filed and granted by the Court.

Rule 5.3 Filing of Discovery Materials

Pursuant to Fed. R.Civ. P. 5(d), the filing of discovery depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall be governed by the Case Management Plan defined in Local Rule 16.1(b)(4).

CHAPTER III
PLEADINGS AND MOTIONS

Rule 7.1 Motions

(a) Motions Governed by Case Management Plan. All motions are governed by the Case Management Plan adopted pursuant to the Civil Justice Reform Act of 1990.

(b) **Motion Day.** A Judicial Officer may designate a day on which he/she will hear and determine civil motions on a monthly or more frequent basis, the disposition of which motions, in the judgment of the Judicial Officer, can thereby be expedited. Notice shall be given to counsel for the moving and opposing party of the date on which a particular motion is to be heard. The establishment of a general motion day by a Judicial Officer does not preclude the Judicial Officer from exercising the discretion to set a motion for hearing on another date or preclude the Judicial Officer from disposing of any motion without a hearing. The Judicial Officer may hear oral argument on any motion by telephone conference. The Judicial Officer may impose sanctions for failure by any party to attend the hearing, as appropriate in the particular case.

(c) Motions to be in Writing. All motions, unless made during a hearing or trial, shall be in writing and shall be made sufficiently in advance of the trial to avoid any delay in trial.

(d) Memorandum by Moving Party. The moving party shall serve and file with its motion a memorandum of the points and authorities on which it relies in support of the motion.

(e) Memorandum in Opposition. Each party opposing a motion shall serve and file a memorandum in opposition within ten (10) days after service of the motion, excluding intermediate Saturdays, Sundays, and legal holidays.

(f) Reply Memorandum. The moving party may serve and file a reply memorandum in support of its motion within five (5) days after service of the memorandum in opposition, excluding intermediate Saturdays, Sundays, and legal holidays.

(g) Length of Memoranda. Without prior approval of the Judicial Officer for good cause shown, memoranda relating to dispositive motions shall not exceed ten (10) pages in length for expedited cases, twenty (20) pages for administrative, standard and unassigned cases, thirty (30) pages for complex cases, and forty (40) pages for mass tort cases. Every memorandum related to a dispositive motion shall be accompanied by an affidavit specifying the track, if any, to which the case has been assigned and a statement certifying that the

memorandum adheres to the page limitations set forth in this section. In the event that the page limitations have been modified by order of the Judicial Officer, a statement to that effect shall be included in the affidavit along with a statement that the memorandum complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Judicial Officer. Memoranda relating to all other motions shall not exceed fifteen (15) pages in length. All memoranda exceeding fifteen (15) pages in length, excepting those in Social Security reviews, shall have a table of contents, a table of authorities cited, a brief statement of the issue(s) to be decided, and a summary of the argument presented. Appendices of evidentiary, statutory or other materials are excluded from these page limitations and may be bound separately from memoranda.

(h) Hearings. The Judicial Officer may rule on unopposed motions without hearing at any time after the time for filing an opposition has expired. The Judicial Officer may also rule on any opposed motion without hearing at any time after the time for filing a reply memorandum has elapsed.

(i) Untimely Motions. Any motion (other than motions made during hearings or at trial) served and filed beyond the motion deadline established by the Court may be denied solely on the basis of the untimely filing.

(j) Sanctions for Filing Frivolous Motions or Oppositions. Filing a frivolous motion or opposing a motion on frivolous grounds may result in the imposition of appropriate sanctions including the assessment of costs and attorneys' fees against counsel and/or the party involved.

(k) Motions Control Program. Pursuant to a motion adopted by the Sixth Circuit Judicial Council at its November 1, 1993 meeting which authorized the chief judge of each district to monitor the motions docket within the district and to implement a motions control program, the Court adopted the Motions Control Program for the Northern District of Ohio set forth in General Order No. 94-01 (see Appendix H)

Rule 7.2 Dispositive Motions

(a) Motions that dispose of any claim or defense shall usually be heard and determined by the District Judge assigned to the case. When such Judge concludes that final adjudication of such motion will be expedited if it is referred to a Magistrate Judge for report and recommendation, such motion may be referred to the Magistrate Judge, whose report and recommendation shall be filed consistent with the provisions of Local Rule 7.3(b).

(b) In those cases in which a summary judgment motion has been pending for more than ninety (90) days, the Judicial Officer shall consider scheduling the case for oral argument within the next thirty (30) days. When oral argument is scheduled, and unless otherwise ordered, the following procedure shall apply:

(1) The Clerk will notify counsel of record as to the date for the oral argument.

(2) The moving party shall file a certificate at least five (5) working days before the hearing declaring that there is no genuine issue as to any material fact. Failure to file the certificate will constitute just cause for denying the motion.

(3) The party opposing the motion for summary judgment shall file a certificate within three (3) working days of the oral hearing identifying the genuine issues as to any material fact and identifying the documents in the record in the context of Fed. R.Civ. P. 56(e) that support the claim of a material fact in dispute.

(4) In those cases where the parties agree that there is no genuine issue as to any material fact, but rather that the issue is one of law on the undisputed facts, the parties shall file a certificate summarizing the undisputed facts and identifying the questions of law. That certificate shall be filed at least three (3) working days before the scheduled hearing. Failure to comply with the provisions of this section will be deemed sanctionable at the discretion of the Judicial Officer.

Rule 7.3 Ruling on Motions

(a) At any oral hearing, the Judicial Officer may announce his or her intended preliminary ruling and rationale or grounds for such decision at the outset of the hearing on a motion, and that the parties will be asked to limit their oral arguments to the reasons why the preliminary ruling is correct or incorrect. In that event, the party which stands to lose on the motion if the preliminary ruling is entered will be invited to argue first, followed by the party in whose favor the preliminary ruling has been made. In all cases, the moving party will be entitled to have the final opportunity, if desired, to address the Court at the hearing. It is to be expected that the Judicial Officer will then rule from the bench.

(b) Unless exigent circumstances are preclusive thereof, the Judicial Officer shall render a ruling on any nondispositive motion within thirty (30) days of the time the motion comes at issue, and shall rule on any dispositive motion within sixty (60) days of the time the motion comes at issue or briefing is concluded on exceptions/objections to a recommended decision on such motion submitted by a Magistrate Judge.

(c) A list of motions not ruled upon within the time limits set forth in this Rule shall be made available to the public for its viewing in all of the Clerk's Offices throughout the district as requested. The list shall include the case caption, the name of the Judicial Officer, and the type of motion pending. Each Judicial Officer shall be provided with a copy of the list. Upon motion and order, discovery may be suspended during the pendency of any such motions beyond the time limits set forth in this Rule, and track deadlines may be adjusted accordingly at the request of a party where the interests of justice so require.

Rule 9.1 Social Security and Black Lung Cases

Complaints filed in civil cases pursuant to section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI, and XVIII of the Social Security Act, or under Part B, Title IV of the Federal Coal Mine Health and Safety Act of 1969, shall contain, in addition to what is required under Fed. R.Civ. P. 8(a), the following information:

(a) In cases involving claims for retirement, survivors, disability, health insurance, or black lung benefits, the social security number of the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff).

(b) In cases involving claims for supplemental social security income benefits, the social security number of the plaintiff.

The Clerk of Court shall maintain a supply of form complaints for use in such cases and shall provide to potential claimants and/or their attorneys such form complaints upon request.

Rule 10.1 General Format of Papers Presented for Filing

All pleadings, motions, and other documents presented for filing shall be on 8½ x 11 inch white paper of good quality, flat and unfolded and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double-spaced except for quoted material. Each page shall be numbered consecutively.

Only the original shall be filed. No duplicate of any document shall be accepted by the Clerk of Court, except upon written order of the Judicial Officer assigned to the case.

In instances wherein documents are being filed in consolidated or related cases, an additional copy shall be filed for each case number stated in the case caption. In the interest of completeness of the case files, the original document shall be placed in the lead case file and copies of the document shall be placed in each consolidated or related case file.

All documents presented for filing or lodging shall be pre-punched with two (2) normal-size holes (approximately 1/4 inch diameter), centered 2 3/4 inches apart, 1/2 to 5/8 inch from the top edge of the document.

The top margin of the first page of each document filed shall be three (3) inches for use by the Clerk to permit space for the file-stamp without stamping over case information. The title of the Court shall be centered below this 3-inch space.

Signatures on all documents submitted to the Court shall include the typewritten name, address, telephone number and the attorney's Ohio Bar Registration Number, if applicable.

This Rule does not apply to:

(a) Documents filed by pro se litigants, and

(b) Documents filed in removed actions prior to removal from the state courts.

Rule 10.2 Designation of District Judge and/or Magistrate Judge

After the filing of the complaint, all documents filed with the Clerk shall have the name of the District Judge and/or Magistrate Judge to whom the case has been assigned typed or printed immediately under the Court's docket number.

Rule 16.1 Differentiated Case Management

(a) Purpose and Authority. The United States District Court for the Northern District of Ohio ("Northern District") adopts Local Rules 16.1 to 16.3 in compliance with the mandate of the United States Congress as expressed in the Civil Justice Reform Act of 1990 ("CJRA" or "Act"). These Rules are intended to implement the procedures necessary for the establishment of a differentiated case management ("DCM") system.

The Northern District has been designated as a DCM "Demonstration District." The DCM system adopted by the Court is intended to permit the Court to manage its civil docket in the most effective and efficient manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual Judicial Officer. The underlying principle of the DCM system is to make access to a fair and efficient court system available and affordable to all citizens.

(b) Definitions.

(1) "Differentiated case management" ("DCM") is a system providing for management of cases based on case characteristics. This system is marked by the following features: the Court reviews and screens civil case filings and channels cases to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; civil cases having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.

(2) "Case Management Conference" is the conference conducted by the Judicial Officer where track assignment, Alternative Dispute Resolution ("ADR"), and discovery are discussed and where discovery and motion deadlines, deadlines for amending pleadings and adding parties, and the date of the Status Hearing are set. Such conference shall, as a general rule, be conducted no later than thirty (30) days after the date of the filing of the last permissible responsive pleading, or the date upon which such pleading should have been filed, but not later than ninety (90) days from the date counsel for the defendant(s) has entered notice of appearance, regardless of whether a responsive pleading has been filed by that date.

The Court may, upon motion for good cause shown or *sua sponte*, order the conference to be held before such general time frame. Unless otherwise ordered, no Case Management Conference shall be held in any action in which the sole plaintiff or defendant is incarcerated and is appearing pro se.

(3) "Status Hearing" is the mandatory hearing which is held approximately midway between the date of the Case Management Conference and the discovery cut-off date.

(4) "Case Management Plan" ("CMP") is the plan adopted by the Judicial Officer at the Case Management Conference and shall include the determination of track assignment, whether the case is suitable for reference to an ADR program, the type and extent of discovery, the setting of a discovery cut-off date, directions regarding the filing of discovery materials, deadline for filing motions, deadlines for amending pleadings and adding parties, and the date of the Status Hearing.

(5) "Dispositive Motions" shall mean motions to dismiss pursuant to Fed. R.Civ. P. 12(b), motions for judgment on the pleadings pursuant to Fed. R.Civ. P. 12(c), motions for summary judgment pursuant to Fed. R.Civ. P. 56, or any other motion which, if granted, would result in the entry of judgment or dismissal, or would dispose of any claims or defenses, or would terminate the litigation.

(6) "Discovery cut-off" is that date by which all responses to written discovery shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions after the discovery cut-off are not enforceable except by order of the Court for good cause shown.

(c) Date of DCM Application. Local Rules 16.1 to 16.3 shall apply to all civil cases filed on or after January 1, 1992 and may be applied to civil cases filed before that date if the assigned Judge determines that inclusion in the DCM system is warranted and notifies the parties to that effect.

(d) Conflicts with Other Rules. In the event that Local Rules 16.1 to 16.3 conflict with other Local Rules adopted by the Northern District, Local Rules 16.1 to 16.3 shall prevail.

Rule 16.2 Tracks and Evaluation of Cases

(a) Differentiation of Cases.

(1) Evaluation and Assignment. The Court shall evaluate and screen each civil case in accordance with subsection (b) of this Local Rule, and then assign each case to one of the case management tracks described in subsection (a)(2).

(2) Case Management Tracks. There shall be five (5) case management tracks, as follows:

(A) Expedited - Cases on the Expedited Track shall be completed within nine (9) months or less after filing, and shall have a discovery cut-off no later than one hundred (100) days after filing of the CMP. Discovery guidelines for this track include interrogatories limited to fifteen (15) single-part questions, ten (10) requests for production of documents, ten (10) requests for admissions, no more than one (1) non-party fact witness deposition per party (in addition to party depositions) without prior approval of the Court, and such other discovery, if any, as may be provided for in the CMP.

(B) Standard - Cases on the Standard Track shall be completed within fifteen (15) months or less after filing, and shall have a discovery cut-off no later than two hundred (200) days after filing of the CMP. Discovery guidelines for this track include interrogatories limited to thirty-five (35) single-part questions, twenty (20) requests for production of documents, twenty (20) requests for admissions, no more than three (3) non-party fact witness depositions per party (in addition to party depositions) without prior approval of the Court, and such other discovery, if any, as may be provided for in the CMP.

(C) Complex -- Cases on the Complex Track shall have the discovery cut-off established in the CMP and shall have a case completion goal of no more than twenty-four (24) months.

(D) Administrative - Cases on the Administrative Track, except actions under 28 U.S.C. § 2254 and government collection cases in which no answer is filed, shall be referred by Court personnel directly to a Magistrate Judge for a report and recommendation. See Local Rule 72.2(b). Discovery guidelines for this track include no discovery without prior leave of Court, and such cases shall normally be determined on the pleadings or by motion.

Administrative Track cases shall be exempt from the procedures specified in Local Rule 16.3, unless otherwise ordered by a Judicial Officer, and shall be controlled by scheduling orders issued by the Judicial Officer.

(E) Mass Torts -- Cases on the Mass Torts Track shall be treated in accordance with the special management plan adopted by the Court.

(b) Evaluation and Assignment of Cases. The Court shall consider and apply the following factors in assigning cases to a particular track:

(1) Expedited:
- (A) Legal Issues: Few and clear
- (B) Required Discovery: Limited
- (C) Number of Real Parties in Interest: Few
- (D) Number of Fact Witnesses: Up to five (5)
- (E) Expert Witnesses: None
- (F) Likely Trial Days: Less than five (5)
- (G) Suitability for ADR: High
- (H) Character and Nature of Damage Claims: Usually a fixed amount

(2) Standard:
- (A) Legal Issues: More than a few, some unsettled
- (B) Required Discovery: Routine
- (C) Number of Real Parties in Interest: Up to five (5)
- (D) Number of Fact Witnesses: Up to ten (10)
- (E) Expert Witnesses: Two (2) or three (3)
- (F) Likely Trial Days: five (5) to ten (10)
- (G) Suitability for ADR: Moderate to high
- (H) Character and Nature of Damage Claims: Routine

(3) Complex:
- (A) Legal Issues: Numerous, complicated and possibly unique
- (B) Required Discovery: Extensive
- (C) Number of Real Parties in Interest: More than five (5)
- (D) Number of Witnesses: More than ten (10)
- (E) Expert Witnesses: More than three (3)
- (F) Likely Trial Days: More than ten (10)
- (G) Suitability for ADR: Moderate
- (H) Character and Nature of Damage Claims: Usually requiring expert testimony

(4) Administrative: Cases that, based on the Court's prior experience, are likely to result in default or consent judgments or can be resolved on the pleadings or by motion.

(5) Mass Tort: Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the Court.

Rule 16.3 Track Assignment and Case Management Conference

(a) Notice of Track Recommendation and Case Management Conference.

(1) The Court may issue a track recommendation to the parties in advance of the Case Management Conference, or may reserve such determination for the Case Management Conference. If the notice of Case Management Conference does not contain a track recommendation, counsel shall confer to determine whether they can agree to a track recommendation, which shall be subject to the Judicial Officer's approval at the Case Management Conference. The track recommendation shall be made in accordance with the factors identified in Local Rule 16.2(b).

(2) In any action in which the defendant (or all defendants in any action with multiple defendants) is in default of answer, no track recommendation will be made and no Case Management Conference held so long as such default continues. In such a case the plaintiff shall go forward and seek default judgment within one hundred and twenty (120) days of perfection of service (or of sending of a request for a waiver of service under Fed. R.Civ. P. 4(d)), or show cause why the action should not be dismissed for want of prosecution. If such default occurs and the party/parties in default is/are thereafter granted leave to plead, issuance of a track recommendation and scheduling of the Case Management Conference shall proceed in accordance herewith, based upon the date set for the filing of the responsive pleading.

(b) Case Management Conference.

(1) The Judicial Officer shall conduct the Case Management Conference. Lead counsel of record shall participate in the Conference and parties shall attend unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone.

(2) The agenda for the Conference shall include:

(A) Determination of track assignment;
(B) Determination of whether the case is suitable for electronic filing;
(C) Determination of whether the case is suitable for reference to an ADR program;
(D) Determination of whether the parties consent to the jurisdiction of a Magistrate Judge pursuant to 28 U.S.C. § 636(c);

(E) Disclosure of information that may be subject to discovery, including key documents and witness identification;
(F) Determination of the type and extent of discovery;
(G) Setting of a discovery cut-off date;
(H) Setting of a deadline for joining other parties and amending the pleadings;
(I) Setting of deadline for filing motions; and
(J) Setting the date of the Status Hearing, which shall be on a date approximately midway between the date of the Case Management Conference and the discovery cut-off date.

(3) Counsel for all parties are directed to engage in meaningful discussions regarding any track recommendation issued by the Court and each of the other agenda items established by the Court with the goal of timely filing with the Clerk for submission to the Court at least two working days before the Conference a written stipulation agreed to by all parties with respect to each agenda item. This discussion shall also be generally guided by the provisions of Fed. R.Civ. P. 26(f). It shall be the responsibility of counsel for the plaintiff(s) to arrange such pre-Conference discussions sufficiently in advance of the Conference so that, in the event of disagreement about any agenda item, each party may, if it chooses, file and serve a brief written submission of its position on each such disputed item not later than three (3) days prior to the Conference. The Court shall provide forms to counsel for all parties for indicating the parties' positions regarding all such agenda items when it issues its track recommendation.

(4) At the conclusion of the Case Management Conference, the Judicial Officer shall prepare, file, and issue to the parties an order containing the Case Management Plan governing the litigation.

(c) Notification of Complex Litigation.

(1) Definitions.

(A) As used in this Rule, "Complex Litigation" has one or more of the following characteristics:

(i) it is related to one or more other cases;

(ii) it arises under the antitrust laws of the United States;

(iii) it involves more than five (5) real parties in interest;

(iv) it presents unusual or complex issues of fact;

(v) it involves problems which merit increased judicial supervision or special case management procedures.

(B) As used in this Rule, a "case" includes an action or a proceeding.

(C) As used in this Rule, a case is "related" to one or more other cases if:

(i) they involve the same parties and are based on the same or similar claims;

(ii) they involve the same property, transaction or event or the same series of transactions or events; or

(iii) they involve substantially the same facts.

(2) Notice Identifying Complex Litigation. An attorney who represents a party in Complex Litigation, as defined above, shall, with the filing of the complaint, answer, motion, or other pleading, serve and file a Case Information Statement which briefly describes the nature of the case, identifies by title and case number all other related case(s) filed in this and any other jurisdiction (federal or state) and identifies, where known, counsel for all other parties in the action who have not yet entered an appearance. (See Local Rule 3.13(b).)

(3) Manual For Complex Litigation. Counsel for each of the parties receiving notice of a Case Management Conference shall become familiar with the principles and suggestions contained in the Manual for Complex Litigation, Second ("MCL 2d").

(4) Case Management Conference. (See subsection (b)). In preparation for the Case Management Conference, at least seven (7) days prior to the date of the conference counsel for each party shall file and serve a proposed agenda of the matters to be discussed at the conference. At the Case Management Conference, counsel for each party shall be prepared to discuss preliminary views on the nature and dimensions of the litigation, the principal issues presented, the nature and extent of contemplated discovery, and the major procedural and substantive problems likely to be encountered in the management of the case. Coordination or consolidation with related litigation should be considered. Counsel should be prepared to suggest procedures and timetables for the efficient management of the case.

(5) Determination By Order Whether Case to be Treated as Complex Litigation. At the conclusion of the Case Management Conference, the Court shall prepare, file, and issue an order containing the Case Management Plan which shall set forth whether the case thereafter shall be treated as Complex Litigation pursuant to orders entered by the Court consistent with the principles and suggestions contained in MCL 2d. An order under this subdivision may be conditional and may be altered and amended as the litigation progresses.

(6) Subsequent Proceedings.

(A) Once the Court has determined by order that an action shall be treated as Complex Litigation, thereafter the Court shall take such actions and enter such orders as the Court deems appropriate for the just, expeditious and inexpensive resolution of the litigation. Measures should be taken to facilitate communication and coordination among counsel and with the Court.

(B) Throughout the pendency of a case which has been determined to be treated as Complex Litigation, counsel for the parties are encouraged to submit suggestions and plans designed to clarify, narrow and resolve the issues and to move the case as efficiently and expeditiously as possible to a fair resolution.

(d) Status Hearing. The parties, each of whom will have settlement authority, and lead counsel of record shall participate in the Status Hearing. The parties shall participate in person unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Status Hearing. At the Status Hearing the Judicial Officer will:

(1) review and address:

(A) settlement and ADR possibilities;

(B) any request for revision of track assignment and/or of the discovery cut-off or motion deadlines; and

(C) any special problems which may exist in the case;

(2) assign a Final Pretrial Conference date, if appropriate; and

(3) set a firm trial date.

If, for any reason, the assigned Judicial Officer is unable to hear the case within one week of its assigned trial date, the case shall be referred to the Chief Judge for reassignment to any available District Judge or, upon consent of the parties, Magistrate Judge for prompt trial.

(e) Final Pretrial Conference. A Final Pretrial Conference, if any, may be scheduled by the Judicial Officer at the Status Hearing. The parties and lead counsel of record shall be present at the conference. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Final Pretrial Conference. The Final Pretrial Conference shall be scheduled as close to the time of trial as reasonable under the circumstances. The Judicial Officer may, in the Judicial Officer's discretion, order the submission of pretrial memoranda.

(f) Video and Telephone Conferences. The use of telephone conference calls and, where appropriate, video conferencing for pretrial and status conferences is encouraged. The Court, upon motion by counsel or its own instance, may order pretrial and status conferences to be conducted by telephone conference calls. In addition, upon motion by any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the conduct of pretrial and status conferences by video conference equipment.

Rule 16.4 Alternative Dispute Resolution

(a) Purpose. The Court adopts Local Rules 16.4 to 16.10 to make available to the Court and the parties a broad program of court-annexed dispute resolution processes designed to provide quicker, less expensive, and generally more satisfying alternatives to continuing litigation.

It is not contemplated that all of these processes--early neutral evaluation, mediation, arbitration, summary jury trial, and summary bench trial--will be suitable for every case. Rather, the Judges of the Court believe that the careful selection of processes to fit the cases will result in the efficient preparation and resolution of those cases, to the benefit of the parties, their counsel, and the Court.

(b) Definitions.

(1) "Arbitration" is an adjudicative process by which a neutral person or persons (the arbitrator(s)) decide the rights and obligations of parties. The arbitration process described in Local Rule 16.7 is court-annexed, in that it is arranged and administered by the Court. It is also consensual, in that the parties consent to participate, and non-binding.

(2) The "assigned Judge" is the Judge to whom the case is assigned. If the Judge has referred the matter to a Magistrate Judge, the Magistrate Judge is the assigned Judge under Local Rules 16.4 to 16.10 with respect to actions or decisions which are to be made by the assigned Judge.

(3) "Early Neutral Evaluation" ("E.N.E.") is a pre-trial process involving a neutral evaluator who meets with the parties early in the course of the litigation to help them focus on the issues, organize discovery, work expeditiously to prepare the case for trial, and, if possible, settle all or part of the case. The neutral evaluator provides the parties with an evaluation of the legal and factual issues, to the extent possible, at that early stage of the case.

(4) "Mediation" is a non-binding settlement process involving a neutral mediator who helps the parties to overcome obstacles to effective negotiation. The mediation process described in Local Rule 16.6 is court-annexed.

(5) "Summary Jury Trial" is a court-annexed, non-binding process in which the parties briefly present their case to a jury with a Judicial Officer presiding and then use the decision of the jury and information about the jurors' reaction to the legal and factual arguments as an aid to settlement negotiations.

(6) "Summary Bench Trial" is a court-annexed pretrial procedure intended to facilitate settlement consisting of a summarized presentation of a case to a Judicial Officer whose decision and subsequent factual and legal analysis serves as an aid to settlement negotiations.

(c) The ADR Administrator. The "ADR Administrator" is the person appointed by the Court with full authority and responsibility to direct the programs described in this Section. The ADR Administrator shall be a person with training and experience in the administration of ADR Programs. The ADR Administrator shall:

(1) Administer the selection, training, and use of the Federal Court Panel;

(2) Collect and maintain biographical data with respect to members of the Federal Court Panel to permit assignments commensurate with the experience, training, and expertise of the panelists and make the list of panelists and the biographical data available to parties and counsel;

(3) Prepare applications for funding of the ADR Program by the United States government and other parties;

(4) Prepare reports required by the United States government or other parties with respect to the use of funds in the operation and evaluation of the program;

(5) Develop and maintain such forms, records, docket control, and data as may be necessary to administer and evaluate the program;

(6) Periodically evaluate, or arrange for outside evaluation of, the ADR Program and report on that evaluation to the Court, making recommendations for changes in these Rules, if needed; and

(7) Develop, and make available upon request, lists of private or extra-judicial ADR providers.

Decisions of the ADR Administrator, acting within the authority conferred in these Rules, shall be orders of the Court for purposes of enforcement and sanctions.

(d) Federal Court Panel. There is hereby authorized the establishment of a Federal Court Panel consisting of persons who, by experience, training, and character, are qualified to act as evaluators, mediators, arbitrators, or other neutrals in one or more of the processes provided for in these Rules.

(1) Appointment to the Panel. The Federal Court Panel shall consist of persons nominated by the Court's Advisory Group and confirmed by the Judges of the Court.

(2) Qualifications and Training.

(A) Panelists shall be lawyers who have been admitted to the practice of law for at least five (5) years and are currently either members of the bar of the United States District Court for the Northern District of Ohio or members of the faculty of an accredited Ohio law school. The Court may waive these requirements to appoint other qualified persons with special expertise in particular substantive fields or experience in dispute resolution processes.

(B) All persons selected as panelists shall:

(i) Undergo such dispute resolution training as the Court may prescribe;

(ii) Take the oath set forth in 28 U.S.C. § 453; and

(iii) Agree to follow the provisions of these Rules.

Each person shall be appointed as a Federal Court Panelist for a period of three (3) years. Appointment may be renewed upon a demonstration of continued qualification.

(3) Compensation of Panelists.

(A) Mediators and evaluators shall receive no compensation for the first four and one half (4 1/2) hours of services which is to begin when the Mediator or Evaluator meets with the parties for the initial mediation conference or initial evaluation session. Preparation time by the Mediator or Evaluator for the respective ADR proceeding shall not be included in the first four and one half (4 ½) hours of service.

Once the initial four and one half (4 ½) hours of service have been provided by the Mediator or Evaluator, the parties shall be equally responsible for the Panelist's compensation at the rate of $150 per hour. A compensation schedule for arbitrators shall be published by the Court.

(B) No panelist may be assigned in one calendar year to more than one case which falls within the Complex Case Track (See Local Rule 16.2 and 16.3(c)), nor to a total of more than five (5) cases, without the consent of the panelist.

(e) Referral to ADR. Parties are encouraged to use the provisions of these Rules regarding ADR, and the Judicial Officer shall direct the parties to an appropriate ADR program when, in the judgment of the Judicial Officer, such referral is warranted. In the event it is a case referred to a Magistrate Judge for case management only, any reference to ADR may be made only with the approval of the District Judge to whom the case was assigned. ADR hearing dates shall not be modified without leave of Court.

Rule 16.5 Early Neutral Evaluation (E.N.E.)

(a) Eligible Cases. Any civil case may be referred to E.N.E.

(b) Selection of Cases. A case may be selected for E.N.E.:

(1) By the Court at the Case Management Conference (See Local Rule 16.1(b)(2)); or

(2) At any time:

(A) By the Court on its own motion;

(B) By the Court, on the motion of one of the parties; or

(C) By stipulation of all parties.

(c) Administrative Procedure.

(1) Upon notice that a case has been referred to E.N.E., the ADR Administrator will promptly provide the parties with a Notice of Referral, listing of available neutrals selected from the Federal Court Panel who are qualified to deal with the subject matter of the lawsuit. The parties shall confer with each other within ten (10) days after receiving the written Notice of Referral and provide the ADR Administrator with an agreed list of three proposed evaluators, ranked in order of preference. In the event of multiple parties not united in interest, the parties shall add the name of one proposed evaluator for each such additional party.

If the parties fail to provide the ADR Administrator with an agreed list of three proposed evaluators, or additional proposed evaluator(s) when there are multiple parties not united in interest, the ADR Administrator shall select from the list of available neutrals provided to the parties an evaluator who is qualified to deal with the subject matter of the lawsuit. The ADR Administrator shall make a preliminary determination that the proposed evaluator has no conflicts of interest and that the proposed evaluator can serve.

Nothing in this Rule shall limit the right of the parties, with consent of the Court, to select a person of their own choosing to act as an evaluator hereunder.

(2) The ADR Administrator shall contact the proposed evaluator(s), in the order of preference provided by the parties, concerning potential conflicts of interest

and scheduling. Once a determination has been made that a proposed evaluator can serve, the ADR Administrator shall provide written Notice of Designation (which shall include the name, address and telephone number of the Evaluator) to counsel for all parties (or to parties not yet represented by counsel) and to the Evaluator. If, after Notice of Designation is given or sent, a new party is joined in the action, the ADR Administrator shall promptly send that new party a copy of the Notice of Designation.

(3) Promptly after receiving the Notice of Designation, the Evaluator shall schedule the evaluation session which, unless otherwise ordered by the Court, shall be not more than thirty (30) days from the date of the written Notice of Designation. The Evaluator shall send written notice to all parties and to the ADR Administrator advising them as to the date, time and location of the evaluation session.

(4) A request the parties for postponement of a scheduled evaluation session must be presented in writing to the ADR Administrator, and not to the Evaluator.

(d) Neutrality of Evaluator. If at any time the Evaluator becomes aware of or a party raises an issue with respect to the Evaluator's neutrality because of some interest in the case or because of a relationship or affiliation with one of the parties, the Evaluator shall disclose the facts with respect to the issue to all of the parties. If a party requests that the Evaluator withdraw because of the facts so disclosed, the Evaluator may withdraw and request that the ADR Administrator appoint another evaluator. If the Evaluator determines that withdrawal is not warranted, the Evaluator may elect to continue. The objecting party may then request the ADR Administrator to remove the Evaluator. The ADR Administrator may remove the Evaluator and choose another from the Federal Court Panel. If the ADR Administrator decides that the objection is unwarranted, the evaluation session shall proceed as scheduled, or, if delay was necessary, as soon after the scheduled date as possible.

(e) Written Submissions to the Evaluator.

(1) No later than five (5) days before the evaluation session, each party shall submit to the Evaluator and serve on all other parties a written evaluation statement. The statement shall not exceed ten (10) pages and shall conform to this Rule. The statement shall:

(A) Identify the person, in addition to counsel, who will attend the session as a representative of the party with decision making authority;

(B) Identify any legal or factual issues whose early resolution might reduce the scope of the dispute or contribute to settlement;

(C) Describe discovery which is contemplated; and,

(D) Include as exhibits copies of all pleadings filed by the party submitting the written statement.

The statement may include any other information the party believes useful in preparing the Evaluator and other parties for a productive session. The statement may identify individuals connected to another person (including a representative of an insurer) whose presence would be helpful or necessary to make the session productive. The Evaluator shall determine whether any person so identified should be requested to attend and may make such request.

(2) Written evaluation statements shall not be filed and shall not be shown to the Court.

(3) In addition to submitting the written evaluation statement, the parties shall prepare to respond fully and candidly in a private caucus to questions by the Evaluator concerning:

(A) The estimated costs to that party of litigating the case through trial, including legal fees;

(B) Witnesses (both lay witnesses and experts);

(C) Damages, including the method of computation and the proof to be offered; and

(D) Plans for discovery.

(f) Attendance at the Evaluation Conference.

(1) All parties shall be present, except that when a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of such party or insurance company, with full authority to act and to settle, shall attend. Willful failure of a party to attend the evaluation conference shall be reported by the Evaluator to the ADR Administrator for transmittal to the assigned Judge, who may impose appropriate sanctions.

(2) Each party shall be represented at the session by the attorney expected to be primarily responsible for handling the trial of the case.

(g) Procedure at Evaluation Conferences.

(1) Each E.N.E. conference shall be informal. The Evaluator shall conduct the process in order to help the parties to focus the issues and to work efficiently and expeditiously to make the case ready for trial or settlement.

(2) At the initial conference, and at additional conferences as the Evaluator deems appropriate, the Evaluator shall:

(A) Permit each party to make a brief oral presentation of its position, without interruption, through counsel or otherwise;

(B) Help the parties to identify areas of agreement and, if feasible, enter stipulations;

(C) Determine whether the parties wish to negotiate, with or without the Evaluator's assistance, before evaluation of the case;

(D) Help the parties identify issues and assess the relative strengths and weaknesses of the parties' positions;

(E) Help the parties to agree on a plan for exchanging information and conducting discovery which will enable them to prepare expeditiously for the resolution of the case by trial, settlement, or dispositive motion;

(F) Help the parties to assess litigation costs realistically;

(G) Determine whether one or more additional conferences would assist in the settlement or case development process and, if so, schedule the conference and direct the parties to prepare and submit any additional written materials needed for the conference;

(H) At the final conference (which may be the initial conference), give an evaluation of the strengths and weaknesses of each party's case and of the probable outcome if the case is tried, including, if feasible, the dollar value of each claim and counterclaim;

(I) Advise the parties, if appropriate, about the availability of ADR processes that might assist in resolving the dispute; and

(J) Report to the ADR Administrator in writing within ten (10) days of the close of the E.N.E. conference: the fact that the E.N.E. process was completed, any agreements reached by the parties, and the Evaluator's recommendation, if any, as to future ADR processes that might assist in resolving the dispute.

(3) The Evaluator may, subject to the requirements stated in this Rule:

(A) Determine how to structure the evaluation conference;

(B) Hold separate, private caucuses with any party or counsel but may not, without the consent of that party or counsel, disclose the contents of that discussion to any other party or counsel; and

(C) Act as a mediator or otherwise assist in settlement negotiations either before or after presenting the evaluation called for in subsection (g)(2)(H) of this Rule.

(h) Confidentiality. The entire E.N.E. process is confidential. The parties and the Evaluator shall not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. Parties, counsel, and evaluators may, however, respond to confidential inquiries or surveys by persons authorized by the Court to evaluate the E.N.E. program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The E.N.E. process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Evaluator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the E.N.E. process.

Rule 16.6 Mediation

(a) Eligible Cases. Any civil case may be referred to mediation.

(b) Selection of Cases.

(1) When Selected. A case may be selected for mediation:

(A) When the status of discovery is such that the parties are generally aware of the strengths and weaknesses of the case; or

(B) At any earlier time by agreement of the parties and with the approval of the Court.

(2) How Selected. A case may be selected for mediation:

(A) By the Court on its own motion;

(B) By the Court, on motion of one of the parties; or

(C) By stipulation of all parties.

(3) Objection to Mediation.

(A) For good cause, a party may object to the referral to mediation by the Court on its own motion by filing a written request for reconsideration within ten (10) days of the date of the Court's order.

(B) Mediation processes shall be stayed pending decision on the request for reconsideration, unless otherwise ordered by the Court.

(4) Arbitration. If all parties advise the Court that they would prefer court-annexed arbitration to mediation, the Court may order the case to arbitration under Local Rule 16.7.

(5) Private ADR. If all parties advise the Court that they would prefer to use a private ADR process (including private arbitration or mini-trial), the Court may permit them to do so at the expense of the parties, subject to:

(A) The submission to the Court of an agreement, executed by the parties, providing for the conduct of the ADR process;

(B) The filing with the Court, within ten (10) days of the completion of the ADR process, of a written report signed by the neutral or by the parties if no neutral was used.

(c) Administrative Procedure.

(1) Upon notice that a case has been referred to Mediation, the ADR Administrator will promptly provide the parties with a Notice of Referral, listing of available neutrals selected from the Federal Court Panel who are qualified to deal with the subject matter of the lawsuit. The parties shall confer with each other within ten (10) days after receiving the written Notice of Referral and provide the ADR Administrator with an agreed list of three proposed mediators, ranked in order of preference. In the event of multiple parties not united in interest, the parties shall add the name of one proposed mediator for each such additional party.

If the parties fail to provide the ADR Administrator with an agreed list of three proposed mediators, or additional proposed mediator(s) when there are multiple parties not united in interest, the ADR Administrator shall select from the list of available neutrals provided to the parties a mediator who is qualified to deal with the subject matter of the lawsuit. The ADR Administrator shall make a preliminary determination that the proposed mediator has no conflicts of interest and that the proposed mediator can serve.

Nothing in this Rule shall limit the right of the parties, with consent of the Court, to select a person of their own choosing to act as a mediator hereunder.

(2) The ADR Administrator shall contact the proposed mediator(s), in the order of preference provided by the parties, concerning potential conflicts of interest and scheduling. Once a determination has been made that a proposed mediator can serve, the ADR Administrator shall provide written Notice of Designation (which shall include the name, address and telephone number of the Mediator) to counsel for all parties (or to parties not yet represented by counsel) and to the Mediator. If, after Notice of Designation is given or sent, a new party is joined in the action, the ADR Administrator shall promptly send that new party a copy of the Notice of Designation.

(3) Promptly after receiving the Notice of Designation, the Mediator shall schedule the mediation conference which, unless otherwise ordered by the Court, shall not be more than thirty (30) days from the date of written Notice of Designation. The Mediator shall send written notice to all parties and to the ADR Administrator advising them as to the date, time and location of the mediation conference.

(4) A request by the parties for postponement of a scheduled mediation conference must be presented in writing to the ADR Administrator, and not to the Mediator.

(d) Neutrality of Mediator. If at any time the Mediator becomes aware of or a party raises an issue with respect to the Mediator's neutrality because of some interest in the case or because of a relationship or affiliation with one of the parties, the Mediator shall disclose the facts with respect to the issue to all of the parties. If a party requests that the Mediator withdraw because of the facts so disclosed, the Mediator may withdraw and request that the ADR Administrator appoint another mediator. If the Mediator determines that withdrawal is not warranted, the Mediator may elect to continue. The objecting party may then request the ADR Administrator to remove the Mediator. The ADR Administrator may remove the Mediator and choose another from the Federal Court Panel. If the ADR Administrator decides that the objection is unwarranted, the mediation conference shall proceed as scheduled or, if delay was necessary, as soon after the scheduled date as possible.

(e) Written Submissions to Mediator.

(1) At least five (5) days before the mediation conference, the parties shall submit to the Mediator:

(A) Copies of relevant pleadings and motions;

(B) A short memorandum stating the legal and factual positions of each party respecting the issues in dispute; and

(C) Such other material as each party believes would be beneficial to the Mediator.

(2) Upon reviewing such material, the Mediator may, at his or her own discretion or on the motion of a party, schedule a preliminary meeting with counsel.

(3) Written mediation memoranda shall not be filed and shall not be shown to the Court.

(f) Attendance at Mediation Conference. The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and shall be prepared and authorized to discuss all relevant issues, including settlement. The parties shall also be present, except that when a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of such party or insurance company, with full authority to settle, shall attend. Willful failure of a party to

attend the mediation conference shall be reported by the Mediator to the ADR Administrator for transmittal to the assigned Judge, who may impose appropriate sanctions.

(g) Procedure at Mediation Conference.

(1) The mediation conference, and such additional conferences as the Mediator deems appropriate, shall be informal. The Mediator shall conduct the process in order to assist the parties in arriving at a settlement of all or some of the issues involved in the case.

(2) The Mediator may hold separate, private caucuses with any party or counsel but may not, without the consent of that party or counsel, disclose the contents of that discussion to any other party or counsel.

(3) If the parties have failed, after reasonable efforts, to develop settlement terms, or if the parties request, the Mediator may submit to the parties a final settlement proposal which the Mediator believes to be fair. The parties will carefully consider such proposal and, at the request of the Mediator, will discuss the proposal with him or her. The Mediator may comment on questions of law at any appropriate time.

(4) The Mediator may conclude the process when:

(A) A settlement is reached; or

(B) The Mediator concludes, and informs the parties, that further efforts would not be useful.

(5) The Mediator shall report the results of the mediation to the ADR Administrator within ten (10) days of the close of the mediation conference.

(A) If a settlement agreement is reached, the Mediator, or one of the parties at the Mediator's request, shall prepare a written entry reflecting the settlement agreement, which entry shall be signed by the parties and filed with the ADR Administrator for approval by the Court.

(B) If a settlement agreement is not reached, the Mediator shall report in writing to the ADR Administrator that mediation was held, any agreements reached by the parties, and the Mediator's recommendation, if any, as to future processing of the case.

(h) Confidentiality. The entire mediation process is confidential. The parties and the Mediator may not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. Parties, counsel, and mediators may, however, respond to confidential inquiries or surveys by persons authorized by the Court to evaluate the mediation program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process.

Rule 16.7 Arbitration

(a) Eligible Cases. Any civil case may be referred to arbitration as authorized by 28 U.S.C. § 651, et seq.

(b) Selection of Cases.

(1) When Selected. A case may be selected for arbitration:

(A) By the Court at the Case Management Conference (See Local Rule 16.1(b)(2)); or

(B) At any time thereafter:

(i) By the Court on its own motion;

(ii) By the Court on motion of one of the parties; or

(iii) By stipulation of all parties.

(2) Written Notice to Parties. The ADR Administrator shall give or send prompt written notice of selection to all parties.

(3) Relief from Selection.

(A) At any time prior to the expiration of the twenty (20) days following the date shown on the written notice of selection, any party may decline to consent to arbitration under this Rule by filing a statement to that effect with the ADR Administrator. No person affiliated with the Court may attempt to coerce a party or attorney to consent to arbitration. If a party or attorney declines to consent, no Judge to whom the action is or may be assigned may be advised of the identity of that party or attorney. No party or attorney may be prejudiced for declining to participate in arbitration.

(B) The assigned Judge may, acting sua sponte or on motion by any party, exempt any case from arbitration if the objectives of arbitration would not be realized:

(i) Because the case involves complex or novel legal issues;

(ii) Because legal issues predominate over factual issues; or

(iii) For other good cause.

(C) In lieu of arbitration under this Rule, the parties to a civil action may elect private consensual arbitration under the Federal Arbitration Act (9 U.S.C. § 1, et seq.) and agree that the case be referred to binding arbitration. The order of referral shall specify the agreement of the parties with respect to the conduct of the arbitration and payment of the Arbitrator(s).

(c) Administrative Procedure.

(1) Selection of Arbitrators. When a case has been referred for arbitration, the ADR Administrator shall forthwith furnish to each party the names of five proposed arbitrators drawn at random from available neutrals on the Federal Court Panel. If there are multiple parties not united in interest on either side of the case, the ADR Administrator shall add the name of one proposed arbitrator for each additional party. The parties shall then confer for the purpose of selecting three arbitrators or, if the parties agree in writing, a single arbitrator, in the following manner:

(A) Each party shall be entitled to strike one name from the list, beginning with the first-named plaintiff to strike the first name, the first-named defendant(s) the next, and alternating between plaintiffs and defendants in the order named. If the parties have agreed to select a single arbitrator, the first-named plaintiff and the first-named defendant shall each strike an additional name until a single name remains.

(B) The parties shall submit to the ADR Administrator, within ten (10) days of receipt by them of the original list, the names of the three arbitrators or the name of the single arbitrator selected from the list by means of the process described in sub-section (A) above. In the event the parties fail to notify the ADR Administrator of the selection of arbitrator(s) within the time provided, the Clerk shall make the selection of arbitrator(s) at random from the original list of five names.

(C) The ADR Administrator shall promptly notify the person or persons of their selection. If any person so selected is unable or unwilling to serve, the process of selection under this Rule shall begin again to select another arbitrator for that position.

(2) Notification of Hearing. When the selected arbitrator(s) have agreed to serve, the ADR Administrator shall confer with them concerning potential conflicts of interest and shall thereafter promptly send written Notice of Designation to counsel for the parties and the Arbitrator(s):

> (A) Promptly after receiving the Notice of Designation, the Arbitrator(s) shall schedule the arbitration hearing, which shall not be more than thirty (30) days from the date of the written Notice of Designation and not more than one hundred eighty (180) days from the date of the filing of the answer or the date of the filing of a reply to a counterclaim, and shall provide written notice to counsel for the parties and the ADR Administrator advising them as to the date, time and location of the arbitration hearing.

(3) Unless all parties consent, or unless the assigned Judge so orders for good cause, no arbitration hearing may commence until thirty (30) days after disposition by the assigned Judge of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment.

(4) The Arbitrator(s) may, for good cause, grant one continuance for not more than thirty (30) days from the arbitration hearing date set in the written notice. No subsequent continuance may be granted except by the assigned Judge, for good cause.

(d) Neutrality of Arbitrator(s).

(1) No person shall serve as an arbitrator in an action in which any of the circumstances specified in 28 U.S.C. § 455 exist.

(2) If at any time an arbitrator becomes aware of or a party raises an issue with respect to the Arbitrator's neutrality because of some interest in the case or because of a relationship or affiliation with one of the parties or attorneys, the Arbitrator shall disclose the facts with respect to the issue to all of the parties. If a party requests that the Arbitrator withdraw because of the facts so disclosed, the Arbitrator may withdraw and request that the ADR Administrator appoint another arbitrator. If the Arbitrator determines that withdrawal is not warranted, the Arbitrator may elect to continue. The objecting party may then request the ADR Administrator to remove the Arbitrator. The ADR Administrator may remove the Arbitrator and choose another from the Federal Court Panel. If the ADR Administrator decides that the objection is unwarranted, the arbitration hearing shall proceed as scheduled or, if delay was necessary, as soon after the scheduled date as possible.

(e) Submissions to Arbitrator(s).

(1) At least five (5) days before the arbitration hearing, the parties shall submit to each arbitrator:

(A) A set of relevant pleadings; and

(B) A short memorandum by each party stating the legal and factual positions of the party, together with copies of the documentary exhibits the party intends to offer at the hearing.

(2) At least five (5) days before the arbitration hearing, each party shall deliver to the other party a copy of the memorandum and copies of the documentary exhibits provided to the Arbitrator(s), and each party shall make available any non-documentary exhibits for examination by the other party. If a party fails to deliver a copy of a documentary exhibit or to make available for examination a non-documentary exhibit as required, the Arbitrator(s) may refuse to receive the exhibit in evidence.

(f) Attendance at Arbitration Hearing.

(1) Each individual who is a party shall attend the hearing in person. When a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of the party or insurance company, with full authority to settle, shall attend.

(2) Absence of a party shall not be a ground for continuance. An award against an absent party shall be made only upon presentation of proof satisfactory to the Arbitrator(s).

(g) Procedure at Arbitration Hearing.

(1) Conduct of Hearing. The Arbitrator(s) may administer oaths and affirmations and all testimony shall be given under oath or affirmation. Each party shall have the right to cross-examine witnesses except as herein provided. In receiving evidence, the Arbitrator(s) shall be guided by the Federal Rules of Evidence, but shall not thereby be precluded from receiving evidence considered by the Arbitrator(s) to be relevant and trustworthy and which is not privileged. Attendance of witnesses and production of documents may be compelled in accordance with Fed. R.Civ. P. 45.

(2) Transcript or Recording. A party may cause a transcript or recording to be made of the proceedings at the party's expense. Except as provided in subsection (i)(2) of this Rule, no transcript of the proceedings shall be admissible in evidence at any subsequent trial de novo.

(3) Place of Hearing. Arbitration hearings may be held at any location within the Northern District of Ohio selected by the Arbitrator(s). In making the selection, the Arbitrator(s) shall consider the convenience of the panel, the parties, and the witnesses.

(4) Time of Hearing. Unless the parties agree otherwise, hearings shall be held during normal business hours.

(5) Authority of Arbitrator(s). The Arbitrator(s) may make reasonable rules and issue orders necessary for the fair and efficient conduct of the hearing. Any two members of a panel shall constitute a quorum. The concurrence of a majority of the entire panel shall be required for any action or decision of the panel, unless the parties stipulate otherwise.

(6) Ex Parte Communication. There shall be no ex parte communication between an arbitrator and any counsel or party on any matter touching the action except for purposes of scheduling or continuing the hearing.

(h) Award and Judgment.

(1) Filing of Award. The Arbitrator(s) shall file the award with the ADR Administrator promptly following the close of the hearing and in any event not more than ten (10) days following the close of the hearing. As soon as the award is filed, the ADR Administrator shall serve copies on the parties.

(2) Form of Award. The award shall state clearly and concisely the name or names of the prevailing party or parties and the party or parties against whom it is rendered, and the sum of money awarded, if any. The award shall specify which party is to pay the costs as provided in 28 U.S.C. § 1920 and whether interest is awarded. If interest is awarded, the award shall separately state the amount.

(3) Entry of Judgment on Award. Unless a party has filed a demand for trial de novo within the time stated in subsection (i)(1) of this Rule, the ADR Administrator shall enter judgment on the arbitration award in accordance with Fed. R.Civ. P. 58. A judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the Court in a civil action,

except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(4) Sealing of Arbitration Awards. The content of any arbitration award made under this Rule shall not be made known to any Judge unless:

(A) The assigned Judge is asked to decide whether to assess costs under subsection (j) of this Rule;

(B) The Court has entered final judgment or the action has been otherwise terminated; or

(C) The Judge needs the information for the purpose of preparing the report required by § 903(b) of the Judicial Improvements and Access to Justice Act.

(i) Trial de Novo.

(1) Right to Trial de Novo. Any party may demand a trial de novo in the district court by filing with the ADR Administrator a written demand containing a short and plain statement of the reasons for the demand. The party shall serve a copy upon all counsel of record and any unrepresented party. Such a demand must be filed and served within thirty (30) days after the date of filing of the arbitration award, except that the United States, its officers and agencies, shall have sixty (60) days to file and serve a written demand for a trial de novo. Upon the filing of a demand for a trial de novo the action shall be treated for all purposes as if it had not been referred to arbitration, except that no additional pretrial discovery shall be permitted without leave of court, for good cause. Any right of trial by jury that a party would otherwise have shall be preserved inviolate. Withdrawal of a demand for a trial de novo shall reinstate the Arbitrator's award.

(2) Limitation on Admission of Evidence. The assigned Judge shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless:

(A) The evidence would otherwise be admissible under the Federal Rules of Evidence; or

(B) The parties have otherwise stipulated.

(j) Assessment of Costs.

(1) The party requesting a trial de novo shall deposit with the ADR Administrator a sum equal to the Arbitrator(s)' fees as advance payment for such costs, except that this requirement does not apply to parties proceeding in forma pauperis or to the United States, its officers or agencies.

(2) Any sum deposited under subsection (1) above shall be returned to the party demanding trial de novo if:

(A) The party obtains a final judgment more favorable than the arbitration award; or

(B) The assigned Judge determines that the demand for trial de novo was made for good cause.

(3) Any sum deposited as provided in subsection (1) above and not returned to the party as provided in subsection (2) above shall be taxed as costs of the arbitration and paid to the Clerk.

(4) In any trial de novo, the assigned Judge may assess costs of that trial, as provided in 28 U.S.C. § 1920, against the party who demanded trial de novo if:

(A) That party fails to obtain a judgment, exclusive of interest and costs, which is substantially more favorable to that party than the arbitration award; and

(B) The assigned Judge determines that the party's conduct in seeking a trial de novo was in bad faith.

For the purpose of this subsection (4), a verdict may be considered substantially more favorable if it is more than 10 percent (10%) better for the party than the arbitration award. This subsection (4) does not apply to any party in cases involving the United States or one of its agencies as a party.

(5) Except as provided in subsection (j) of this Rule, no penalty shall be assessed against any party for demanding a trial de novo.

Rule 16.8 Summary Jury Trial

(a) Eligible Cases. Any civil case triable to a jury may be assigned for summary jury trial.

(b) Selection of Cases. A case may be selected for summary jury trial:

(1) By the Court at the Case Management Conference. (See Local Rule 16.1(b)(2)); or

(2) At any time:

(A) By the Court on its own motion;

(B) By the Court, on the motion of one of the parties; or

(C) By stipulation of all parties.

(c) Procedural Considerations. Summary jury trial is a flexible ADR process. The procedures to be followed should be determined in advance by the assigned Judge in light of the circumstances of the case. The following matters should be considered by the assigned Judge and counsel in structuring a summary jury trial:

(1) Scheduling. Ordinarily a case should be set for summary jury trial when discovery is substantially completed and conventional pretrial negotiations have failed to achieve settlement. In some cases, settlement prospects may be advanced by setting the case for an early summary jury trial. To facilitate an early summary jury trial, limited and expedited discovery should be obtained to accommodate earlier settlement potential. The summary jury trial should usually precede the trial by approximately sixty (60) days.

(2) Presiding Judge. The summary jury trial shall be conducted by the District Judge or Magistrate Judge to whom the case is assigned or referred.

(3) Submission of Written Materials. It is generally advantageous to have various materials submitted to the Court before the summary jury trial begins. These could include a statement of the case, stipulations, exhibits, and proposed jury instructions.

(4) Attendance. Each individual who is a party shall attend the summary jury trial in person. When a party is other than an individual or when a party's interests are

being represented by an insurance company, an authorized representative of the party or insurance company, with full authority to settle, shall attend.

(5) Size of Jury Panel. Usually the jury shall consist of six (6) jurors. To accommodate case concerns, the size of the jury panel may vary. Because the summary jury trial is usually concluded in a day or less, the Presiding Judge may choose to use the challenged or unused panel members as a second jury. This procedure can provide the Court and counsel with additional juror reaction.

(6) Voir Dire. Parties should ordinarily be permitted some limited voir dire. Whether challenges are to be allowed ought to be determined in advance.

(7) Opening Statements. It is helpful if each party has a chance to make a brief opening statement to help put the case into perspective. It may be possible to combine voir dire and the opening statement into one procedure, and fifteen (15) minutes may be sufficient time for each party.

(8) Transcript or Recording. A party may cause a transcript or recording to be made of the proceedings at the party's expense, but no transcript of the proceedings should be submitted in evidence at any subsequent trial unless the evidence would be otherwise admissible under the Federal Rules of Evidence.

(9) Case Presentations. As this is not a full trial, it is expected that counsel will present a condensed narrative summarization of the entire case consisting of an amalgamation of an opening statement, evidentiary presentations, and final arguments. In this presentation, counsel may present exhibits, read excerpts from exhibits, reports and depositions, all of which evidentiary submissions should be subject to the approval of the Presiding Judge by addressing motions in limine at a reasonable time in advance of the scheduled summary jury trial. This advanced consideration permits the summary jury trial proceedings to proceed uninterruptedly without objections. Generally, live witnesses should not be permitted, although an exception may be made by the Presiding Judge. An attorney certifies that offering any such summary of testimony or evidence is based upon a good faith belief and a reasonable investigation that the testimony or evidence would be available and admissible at trial.

(10) Jury Instructions. Jury instructions should be given. They will have to be adapted to reflect the nature of the proceeding.

(11) Jury Deliberations. Jury deliberations should be limited in time. Jurors should be encouraged to reach a consensus verdict. If that is not possible, separate verdicts may give the parties a sense of how jurors view the case.

(12) De-briefing the Jurors. After the verdict, the Presiding Judge should initiate and encourage a discussion of the case by the parties and the jurors.

(13) Settlement Negotiations. Within a short time after the summary jury trial, the Presiding Judge and the parties should meet to see whether the matter can be settled. A sufficient period between the end of the summary jury trial and the meeting is necessary to allow the parties to evaluate matters, but the Presiding Judge should exercise care not to allow too much time to elapse.

(14) Trial. If the case does not settle as the result of the summary jury trial, it should proceed to trial on the scheduled date.

(15) Limitation on Admission of Evidence. The assigned Judge shall not admit at a subsequent trial any evidence that there has been a summary jury trial, the nature or amount of any verdict, or any other matter concerning the conduct of the summary jury trial or negotiations related to it, unless:

(A) The evidence would otherwise be admissible under the Federal Rules of Evidence; or

(B) The parties have otherwise stipulated.

Rule 16.9 Summary Bench Trial

(a) Eligible Cases. Any case not triable to a jury may be assigned for a summary bench trial.

(b) Selection of Cases. A case may be selected for summary bench trial:

(1) By the Court at the Case Management Conference (See Local Rule 16.1(b)(2));

(2) At any time:

(A) By the Court on its own motion;

(B) By the Court, on the motion of one of the parties; or

(C) By stipulation of all parties.

(c) Procedural Considerations.

(1) Presiding Judge. The summary bench trial shall be conducted by a Judicial Officer other than the Judicial Officer who will ultimately preside at the binding trial.

(2) Proposed Findings of Fact and Conclusions of Law. The parties shall submit proposed findings of fact and conclusions of law in advance of the summary bench trial.

(3) Procedural Considerations. Where appropriate, the same procedural considerations applicable to summary jury trials may be adapted to summary bench trials to reflect the nature of the proceedings.

Rule 16.10 Other ADR Procedures

A Judge may utilize other methods of court-annexed alternative dispute resolution procedures or recommend or facilitate the use of any extrajudicial procedures for dispute resolution not otherwise provided for by these Local Rules.

In the event a reference to extrajudicial procedures is made, all further court-annexed case management procedures may be stayed and an administrative closing of the case may be made pursuant to Administrative Office guidelines for cases in which all presently contemplated proceedings have been completed. (See Guide to Judiciary Policies and Procedures, Volume XI, Chapter 5, Subsection III, H, p. 26).

If the case is resolved extrajudicially, then the administrative closing order may be supplemented with a terminal dispositive order. If the case is not resolved extrajudicially, the case may be returned to a court-annexed case management protocol for processing and ultimate disposition.

CHAPTER IV
PARTIES

Rule 23.1 Class Actions

(a) Designation. In any case sought to be maintained as a class action, the complaint, or other pleading asserting a class action, shall include, next to its caption, the legend "Class Action."

(b) Class Action Allegations. The complaint, or other pleading asserting a class action, shall contain, under a separate heading styled "Class Action Allegations," the following:

(1) A reference to the portion or portions of Fed. R.Civ. P. 23 under which it is claimed that the suit is properly maintainable as a class action; and

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(A) the size (or approximate size) and definitions of the alleged class;

(B) the bases upon which the party or parties maintaining the class action or other parties claiming to represent the class are alleged to be an adequate representative(s) of the class;

(C) the alleged questions of law and fact claimed to be common to the class; and

(D) in actions claimed to be maintainable as class actions under Fed. R.Civ. P. 23(b)(3), allegations intended to support the findings required by that subdivision.

(c) Class Action Determination. Unless the Court otherwise orders, the party or parties asserting a class action shall, within ninety (90) days after the filing of a pleading asserting the existence of a class or within such other period of time mandated by controlling statute, move for a determination under Fed. R.Civ. P. 23(c)(1), whether the action is to be maintained and, if so, the membership of the class. As soon as practicable after the motion papers for and against class action determination have been submitted, the Court shall enter an order determining whether the action shall be so maintained. Nothing in this Rule shall preclude any party from moving to strike the class action allegations.

Rule 24.1 Procedure for Notification of Any Claim of Unconstitutionality

(a) In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn into question, or in any action, suit, or proceeding in which a state or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of that state affecting the public interest is drawn into question, the party raising the constitutional issue shall notify the Court of the existence of the question by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

(b) Failure to comply with this Rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this Rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the Federal Rules of Civil Procedure or in statutes.

CHAPTER V
DISCOVERY

Rule 26.1 Discovery - General

The parties are encouraged to cooperate with each other in arranging and conducting discovery, including discovery involved in any ADR program. Discovery shall be conducted according to limitations established at the Case Management Conference, based generally on the guidelines set forth in Local Rule 16.2(a), and confirmed in the Case Management Plan. Absent leave of court, the parties shall have no authority to modify the limitations placed on discovery by these rules or by court order. Attorneys serving discovery requests shall have reviewed them to ascertain that they are applicable to the facts and contentions of the particular case. Form discovery pleadings containing requests that are irrelevant to the facts and contentions of the particular case shall not be used.

Rule 26.2 Preliminary Discovery

Prior to the Case Management Conference, the parties may conduct only such formal discovery as is necessary and appropriate to support or defend against any challenge to jurisdiction or claim for emergency, temporary, or preliminary relief that may be presented. The parties are encouraged to limit preliminary discovery to critical issues and to expedite the process without seeking court intervention. This limitation on preliminary formal discovery in no way operates as a limitation on any mandatory disclosure required either by Fed. R.Civ. P. 26(a)(1) or by order of a Judicial Officer.

Rule 30.1 Conduct at Depositions

(a) Witnesses, parties, and counsel shall conduct themselves at depositions in a temperate, dignified, and responsible manner.

(b) The following guidelines for the taking of depositions emphasize the expectations of the Court as to certain issues; they are intended to supplement Fed. R. Civ. P. 26 and 30.

(1) Scheduling. Counsel are expected to make a timely and good faith effort to confer and agree to schedules for the taking of depositions. Unless counsel otherwise agree, depositions shall be conducted during normal business hours. Except where good cause exists, no Notice of Deposition or Subpoena shall issue prior to a scheduling conference with opposing counsel. Counsel for the deponent shall not cancel a deposition or limit the length of a deposition without stipulation of the examining counsel or order of the Court.

(2) Decorum. Opposing counsel and the deponent shall be treated with civility and respect. Ordinarily the deponent shall be permitted to complete an answer without interruption by counsel.

(3) Objections. Objections shall be limited to (a) those which would be waived if not made pursuant to Fed. R. Civ. P. 32(d)(3) and (b) those necessary to assert a privilege, enforce a limitation on evidence directed by the Court or present a motion under Fed. R. Civ. P. 30(d)(3). No other objections shall be raised during the course of the deposition.

(4) Speaking Objections. Counsel may interpose an objection by stating "objection" and the legal grounds for the objection. Speaking objections which refer to the facts of the case or suggest an answer to the deponent are improper and shall not be made in the presence of the deponent.

(5) Instructions Not to Answer. Counsel shall not instruct a witness not to answer a question except under the limited circumstances provided in Fed. R. Civ. P. 30(d)(1). In the event privilege is claimed, examining counsel may make appropriate inquiry about the basis for asserting the privilege.

(6) Witness Preparation. Preparation of the deponent will be completed prior to the taking of the deposition. While a question is pending, counsel for the deponent and the deponent shall not confer, except for the purpose of deciding whether to assert a privilege.

(7) Documents. Examining counsel shall provide counsel for the deponent with copies of all documents shown to the deponent during the deposition.

(8) Disputes. Counsel are expected to comply with Local Rule 37.1 as to any disputes arising in connection with the taking of a deposition.

(c) Where a witness, party, or counsel engages in disruptive or irresponsible behavior at a deposition, the Court may order sanctions or other remedies.

Rule 32.1 Videotape Depositions

(a) General. The use at trial of videotape depositions in civil cases is encouraged. Insofar as possible, the technology of videotape equipment should be utilized to enable the jury to obtain the same factual presentation as would be obtainable if the witness were to appear live in the courtroom. Counsel may, if desired, use multiple cameras and be videotaped while interrogating the deponent or appear with the deponent during all or part of the interrogation.

(b) Guidelines.

(1) Objective. The objective of each videotape deposition shall be to provide a visual and audio record that will, as nearly as possible, approximate the live appearance of the deponent before the trier of fact.

(2) Deposition Officer. The officer presiding at a videotape deposition shall be independent of any of the parties or the counsel of any of the parties. The deposition officer shall be a person authorized under the law to administer an oath to the witness. The deposition officer may also be either the stenographer recording the proceeding or the camera person recording the proceeding by videotape.

(3) The Camera Person or Persons. Counsel for the party noticing the deposition shall be responsible for providing the camera person or persons to record the deposition by videotape. If such camera person or persons is other than the deposition officer, such person may be anyone selected by the counsel noticing the deposition, including an employee of counsel. It will be the obligation of the counsel seeking the deposition to determine that matters of staging and technique such as the placement of the camera(s) and any microphone(s), lighting, camera angles, and backgrounds, as well as the use of any demonstrations or exhibits do fairly, accurately and objectively reproduce and record the testimony. Any objections as to any of the proceedings in the taking of the deposition shall be accurately recorded and timely interposed so that the opposing counsel, insofar as possible, may take corrective action. The Court shall ultimately rule on all objections and make such orders as the Court deems appropriate for the editing of any videotape deposition to prevent prejudice to any of the parties to the action.

(4) Use of Date/Time Generator. There shall be employed at the deposition a date/time generator to create on the videotape a continuous record of the date and time.

(5) Commencing the Deposition. The deposition officer shall commence the deposition by stating on the videotape record his or her name and business address; the name and business address of the officer's employer; the date, time, and place; the name of the deponent and the caption of the action; the identity of the party on whose behalf the deposition is being taken; and the names of all persons present in the deposition room. The deposition officer shall also swear, on the videotape record, that he or she will record the deposition accurately and abide by all provisions of this Rule. The deponent shall be sworn on the videotape record by a person authorized to administer oaths.

(6) Going "Off Camera". The deposition officer shall not stop the videotape recorder after the deposition commences until it concludes, except, however, that any party may request such cessation, which request will be honored unless another party objects. Each time the tape is stopped or started, the deposition officer shall announce the time on the record.

(7) Changing Tapes. If the deposition requires the use of more than one tape, the end of each tape and the beginning of the next shall be announced orally on the videotape record by the deposition officer. In addition, at the beginning of each tape, the deposition officer shall repeat the officer's name and business address, the date, time, and place of the deposition, and the name of the deponent. At the end of the deposition, the deposition officer shall state on the record that the deposition is complete.

(8) Availability of Monitor. There shall be available to counsel throughout the deposition a monitor on which they can view the videotape record as it is being made.

(9) Exhibitions and Demonstrations. A deponent shall be permitted to conduct demonstrations or experiments or reenact physical events during the course of a videotape deposition. Likewise, a party shall be entitled to utilize with the deponent any visual aids or exhibits in such manner as though the witness were appearing live in Court. Counsel may appear with the deponent in the videotape. Any opposing counsel may interpose any objection which he or she deems appropriate to the use of such demonstrations, experiments, or reenactments or visual aids or exhibits, and the Court shall ultimately rule upon such objections and determine whether or not the matter objected to is to be shown to the jury or edited out of the videotape.

(10) Need to Object Timely. Wherever objections are permitted by this Rule, such objections must be timely raised so as to give the opposing party an opportunity to correct the condition which is the subject of the objection.

(11) Recording. The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the Court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means.

(12) Discrepancies Between Videotape and Stenographic Records. In the event of any material discrepancy between the videotape record and the stenographic transcript, the Court shall determine which record shall be submitted to the trier of fact.

(13) Examination and Correction of Deposition Record. If requested by the deponent or a party before completion of the deposition, after the stenographic transcript of the deposition is completed and available for inspection, the deposition officer shall notify the deponent of such availability. The deponent shall be given thirty (30) days from receipt of such notice to review the original videotape and stenographic transcript of the deposition and to request in writing (or on the videotape record if it is still open) any changes or corrections in such records.

(14) Waiver of Execution. Forty-five (45) days after the notice of availability described in subsection (b)(13) is received by all parties, the original of the videotape and stenographic reporting (together with all requests for changes or corrections theretofore received) shall be filed with the Clerk, where it shall have the same force and effect as a duly executed original stenographic transcript of the deponent's testimony. The Clerk shall release the original videotape for viewing only upon order of the Court.

(15) Certification of the Videotape Record. No later than ten (10) days before trial, the deposition officer and any other technician employed at the deposition shall file with the Clerk their sworn statements that the videotape is an accurate and complete record of the deposition and that they have complied with all provisions of this Rule and the Federal Rules of Civil Procedure applicable to a stenographic reporter or the deposition officer. The certification shall indicate whether any review of the record was requested and, if so, shall append any changes made by the deponent during the period allowed. Counsel for a party, however, if in custody of the videotape record, may file the videotape record and prepare the sworn statement

and sign it as counsel. The sworn statement called for by this section shall be served upon all of the parties.

(16) Custody of the Tape. The deposition officer shall maintain custody of the original tape until it is filed with the Court. Parties may view the tape while it is in the officer's custody, but only under conditions that make impossible the erasure or alteration of the tape. The parties may agree that counsel for the party noticing the deposition retain custody of the tape in which event it will be the responsibility of such counsel to file the sworn statement called for under subsection (b)(15) of this Rule.

(17) Editing the Tape. If any party desires to offer any portion of the videotape record at trial, such party shall, no later than five (5) days before trial, advise all other parties of the portions of the tape it wishes to offer. Any party who believes that the portion so designated contains objectionable material may, by motion, seek the Court's ruling on its admissibility in advance of trial. An edited tape, eliminating material found by the Court to be objectionable, shall be prepared at the expense of the party responsible for the original inclusion of that material, unless the parties provide, or the Court orders, another method for the suppression of the objectionable material or allocation of cost. Nothing in this paragraph is intended to supersede the Local Rules concerning premarking of exhibits for trial.

(18) Rulings on Admissibility. The Court, prior to voir dire, shall make rulings as they relate to any videotape deposition filed in accordance with subsection (b)(17) of this Rule, which rulings will include any orders that may require editing of the videotape prior to its being shown to the jury. It will be the responsibility of counsel proffering the videotape deposition to ascertain that the final form of the videotape deposition as shall be shown to the jury conforms to all such rulings. The purpose of such rulings prior to voir dire is to advise the parties prior to voir dire and opening statements so that the parties will know what evidence will be forthcoming from the videotape deposition.

Rule 33.1 Interrogatories

(a) Interrogatories shall be so arranged that, after each separate question, there shall appear a blank space reasonably calculated to enable the answering party to have his or her answer to the interrogatory typed in. Each question shall be answered separately in the space allowed. If the space allowed is insufficient for the answer, the answering party may insert additional pages or retype pages, repeating each question in full, followed by the answer in such manner that the final document shall have each interrogatory immediately succeeded by the separate answer thereto. Unless otherwise permitted by the Court, for good cause shown, interrogatories propounded by a party shall be limited according to the Case Management Track assigned pursuant to Local Rule 16.2(a).

(b) No interrogatory may contain subparts, or a compound, conjunctive, or disjunctive question, except those interrogatories seeking the identity of persons or documents.

(c) Answers and objections to interrogatories shall set forth each question in full before each answer or objection. Each objection shall be followed by a concise statement of the reasons and bases therefor. No interrogatory shall be left unanswered merely because an objection is being interposed with respect to another interrogatory. If an interrogatory contains subparts permitted by this Rule, when objection is made to one subpart the remaining subparts of the interrogatory shall be answered at the time the objection is made.

(d) If the initial set of interrogatories propounded by a party does not exhaust the limitation on the total number of interrogatories established by the Case Management Plan, the remaining number of interrogatories may be propounded in subsequent sets. Unless the Court orders to the contrary, no party need respond to any interrogatories served that are in excess of the limit set forth in the Case Management Plan, as numbered sequentially from the beginning of any set, if that party objects to answering the excess interrogatories on the ground that the limit has been exceeded. On stipulation or motion, for good cause shown, the Court may grant leave to a party to propound interrogatories in excess of the number specified in the Case Management Plan. The Court may direct the party requesting the additional discovery to set forth the additional proposed interrogatories and the reasons they are necessary in its memorandum in support of any such motion or stipulation.

Rule 36.1 Requests for Admissions

Requests for admissions shall be so arranged that, after each separate request for admission, there shall appear a blank space reasonably calculated to enable the answering party to have his or her answer to the request for admission typed in. Each request for admission shall be answered separately in the space allowed. If the space allowed is insufficient for the answer, the answering party may insert additional pages or retype pages, repeating each request for admission in full, followed by the answer in such manner that the final document shall have each request for admission immediately succeeded by the separate answer thereto. Unless otherwise permitted by the Court, for good cause shown, requests for admissions propounded by a party shall be limited according to the Case Management Track assigned pursuant to Local Rule 16.2(a).

Rule 37.1 Discovery Disputes

Discovery disputes shall be referred to a Judicial Officer only after counsel for the party seeking the disputed discovery has made, and certified to the Court the making of, sincere, good faith efforts to resolve such disputes. The Judicial Officer shall attempt to resolve the discovery dispute by telephone conference. In the event the dispute cannot be resolved by the telephone conference, the parties shall outline their respective positions by letter and the Judicial Officer shall attempt to resolve the dispute without additional legal memoranda. If the Judicial Officer still is unable to resolve the dispute, the parties may simultaneously file their respective memoranda in support of and in opposition to the requested discovery by a date set by the Judicial Officer, who may schedule a hearing on the motion to compel. No discovery dispute shall be brought to the attention of a Judicial Officer, and no motion to compel may be filed, more than ten (10) days after the discovery cut-off.

Rule 37.2 Form of Discovery Motions

Upon motion for an order pursuant to Fed. R.Civ. P. 37, compelling an answer or production of documents or authorizing an inspection, the moving party shall include in his or her brief in support of said motion, immediately preceding the discussion and authorities relevant thereto, the interrogatory, document request, deposition question or request for admission in full and any response thereto alleged to be evasive or incomplete; the request for inspection; or the deposition notice, as may be appropriate. Multiple items may precede a single argument if they present common or related issues of fact and law. If there has been no response to the request for discovery or request for admission, or a complete failure to comply with such request, the moving party may append a copy of the interrogatories, document request, request for admission or deposition notice as an exhibit to the brief in lieu of copying the same in the body of the brief.

CHAPTER VI
TRIALS

Rule 38.1 Notation of Jury Demand in the Pleading

If a party demands a jury trial by endorsing it on a pleading, as permitted by Fed. R.Civ. P. 38(b), a notation shall be placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand for Jury Trial" or equivalent statement. This notation will serve as a sufficient demand under Fed. R.Civ. P. 38(b). Failure to use this manner in noting the demand will not result in a waiver under Fed. R.Civ. P. 38(d).

Rule 39.1 Models, Exhibits, Etc.

(a) Lodging of Exhibits. Neither the index of exhibits nor any exhibit, model, etc. which has been lodged with the Office of the Clerk shall be considered public record until admitted into evidence at the trial.

(b) Marking of Exhibits. All exhibits must bear the official case number and shall be marked before trial with official exhibit stickers which are available upon request from the Clerk. The plaintiff shall mark exhibits with numbers and the defendant shall mark exhibits with letters, unless otherwise ordered by the Court. Joint exhibits shall be marked with numbers. If there are multiple defendants, letters shall be used followed by the party's last name. If the defendant has more than 26 exhibits, double letters shall be used.

Where a multiple-page exhibit is introduced, multiple pages should be numbered consecutively.

An index of the exhibits to be used at trial, along with a brief description of such exhibits, shall be filed with the Court and served upon opposing counsel no later than one week before the final pretrial.

(c) Retention and disposal of exhibits.

(1) Retention of exhibits by counsel. All models, diagrams, and exhibits of material filed or placed in the custody of the Clerk of Court for inspection of the Court on the hearing of a cause shall be taken by the party presenting the model, diagram, or exhibit at the conclusion of the hearing unless a party should object and request that the item be retained by the Clerk of Court and the Clerk is so ordered by the Court in writing. It shall be the responsibility of the party offering the model, diagram, or exhibit to maintain the offered or accepted exhibits until after the entry of final judgment or final judgment on appeal on matters appealed, whichever is later, unless directed otherwise by the Court. Upon motion of either party and/or the Court's order, when a demonstrative exhibit is retained by counsel, a picture or other paper record must be substituted for the exhibit.

(2) Disposal of exhibits by the Clerk. When an exhibit is retained in the custody of the Clerk of Court, it shall be removed by counsel within two (2) months after entry of final judgment or final judgment on appeal. All exhibits not removed by counsel shall be disposed of by the Clerk as waste at the expiration of the withdrawal period.

Rule 39.2 Video and Telephone Conferences, Trials and Hearings

Upon motion of any party, or sua sponte, and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the taking of testimony by video conferencing equipment at a trial or other hearing.

Rule 47.1 Venire Selection

The random selection of grand and petit jurors for service in this Court is provided for in a plan adopted by the Court in compliance with the requirements and provisions of the Jury Selection and Service Act of 1968, 28 U.S.C. § 1861, et seq. The plan is available for inspection at the office of the Clerk.

Rule 47.2 Jury Questionnaires

(a) The Court may distribute to all prospective jurors a questionnaire, in the form attached as Appendix C. If utilized, the questionnaire shall be sent to the jurors with their notice to report and shall be completed and returned by them.

(b) Upon motion for good cause shown, or upon the Court's own motion, the Court may distribute another juror questionnaire designed specifically for the case at issue.

(c) Unless otherwise ordered, both questionnaires referred to in this Rule shall be made available for all counsel on the last business day before the trial.

(d) (1) Questionnaires will be available to counsel for the limited purpose of assisting their preparation for voir dire. They are not otherwise to be used, copied, or disclosed without Court order. Upon selection of a jury, all questionnaires shall be returned to the Clerk. Contact prior to trial by any counsel, party, or any person acting on behalf of any counsel or party with any prospective juror is absolutely forbidden. Noncompliance with this directive or any other limitation imposed with reference to the disclosure or use of the questionnaires will lead to contempt of Court citation and other appropriate sanction.

(2) The language contained in subsection (d)(1) above must appear prominently on the first page of any questionnaire governed by this Rule.

Rule 47.3 Voir Dire of Jurors

(a) The Court shall conduct the initial examination of all prospective jurors touching upon their qualifications to serve as jurors in the pending proceeding. The parties may submit written questions to be included in the Court's examination, subject to the Court's discretion.

(b) In all trials, civil and criminal, counsel for the plaintiff and counsel for the defendant each may be allowed such period of time as approved by the Court to conduct voir dire examinations of prospective jurors. In cases involving more than one plaintiff and/or defendant, the time for voir dire shall be divided by counsel for the parties and additional time shall not be allowed, except that the Court in its discretion may allow additional time. Except where otherwise ordered by the Court, the jurors shall be examined collectively.

Rule 47.4 Jury Selection

(a) Exercise of Peremptory Challenges. Except where the Judge has directed prior to the commencement of the examination of trial jurors that a different procedure shall be followed, peremptory challenges to which each party may be entitled under 28 U.S.C. § 1870, shall be exercised in the following manner:

PLAINTIFF	DEFENDANT
1	1
1	1
1	1

In cases where there are multiple parties, the exercise of peremptory challenges shall be left to the discretion of the Court, according to the provisions of 28 U.S.C. § 1870.

(b) Effect of Passing a Peremptory Challenge. In all cases, if either party passes a peremptory challenge, the pass shall be treated as if the challenge had been exercised, but shall not constitute a waiver of subsequent challenges to the jurors, including those impanelled ("in the box") prior to the pass. However, in the event all parties consecutively pass the use of a peremptory challenge, the jury as then constituted will be sworn as the jury for the case.

Rule 48.1 Number of Jurors

In all civil trials, juries shall consist of not less than six (6) or more than twelve (12) members.

Rule 48.2 Juror Note-Taking

Jurors may be permitted to take notes, in the discretion of the Judicial Officer. If allowed to take notes, the Court will provide jurors with the necessary materials.

Rule 48.3 Jury Charge

At the conclusion of the evidence, the charge given to the jury at that time may be reduced to writing and provided to the jurors.

CHAPTER VII
JUDGMENT

Rule 54.1 Assessment of Jury Costs

All counsel in civil cases must seriously discuss the possibility of settlement a reasonable time prior to trial. The Court may, in its discretion, assess the parties or counsel with the cost of one day's attendance of the jurors if a case is settled after the jury has been summoned or during trial, the amount to be paid to the Clerk of Court. For the purpose of interpreting this paragraph, a civil jury is considered summoned for a trial as of noon the business day prior to the designated date of trial.

CHAPTER VIII
PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

Rule 65.1.1 Security; Proceedings Against Sureties

(a) Bonds. The Court, on motion or its own initiative, may order any party to file an original bond or additional security for costs in such amount and so conditioned as the Court by its order may designate.

(b) Sureties. Every bond under this Rule must be secured by either:

(1) a cash deposit equal to the amount of the bond, or

(2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under the Act of August 13, 1894 (28 Stat. 279), as amended, 6 U.S.C. §§ 1-13.

(c) Persons Who May Not Be Sureties. No Clerk, Marshal, member of the Bar, or other officer of this Court shall be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

Rule 66.1 Receiverships

(a) Inventories. Unless the Court otherwise orders, a receiver or similar officer, as soon as practicable after appointment and not later than sixty (60) days after he or she has taken possession of the estate, shall file an inventory of all the property and assets in the receiver's possession, or in the possession of others who hold possession as his or her agent, and in a separate schedule an inventory of the property and assets of the estate not reduced to possession by the receiver but claimed and held by others.

(b) Reports. Within one month after the filing of inventory and at regular intervals of one month thereafter until discharged, or at such times as the Court may direct, the receiver or other similar officer shall file reports of his or her receipts and expenditures and of acts and transactions in an official capacity.

(c) Compensation of Receivers, Attorneys, and Others. The compensation of receivers or similar officers, their counsel and all those who may have been appointed by the Court to aid in the administration of the estate, the conduct of its business, the discovery and acquisition of its assets, the formation of reorganization plans, and the like, shall be ascertained and awarded by the Court in its discretion. Such an allowance shall be made only on such notice to creditors and other persons in interest as the Court may direct. The notice shall state the amount claimed by each applicant. Application shall be made in accordance with appropriate Bankruptcy Rules.

(d) Administration of Estates. In all other respects the receiver or similar officer shall administer the estate as nearly as may be in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the Court.

Rule 67.1 Deposits

Whenever a party seeks a court order for money to be deposited by the Clerk into an interest-bearing account, the party shall personally deliver the order in Cleveland, to the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, to the Deputy-in-Charge, who will inspect the proposed order for proper form and content and compliance with this Rule prior to signature by the Judge for whom the order is prepared.

Any order obtained by a party or parties in an action that directs the Clerk to invest in an interest-bearing account or instrument funds deposited into the registry of the Court pursuant to 28 U.S.C. § 2041 shall include the following (see Appendix D):

(a) the amount to be invested;

(b) the name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;

(c) a designation of the type of account or instrument in which the funds shall be invested; and,

(d) wording which directs the Clerk to deduct a registry fee as a percentage of the income earned on the investment, not to exceed 10%, upon closing of the account and prior to any distribution of funds invested.

Upon signature by the Judicial Officer, the party shall be responsible for serving a copy in Cleveland, to the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, to the Deputy-in-Charge personally.

Rule 67.2 Disbursements

Whenever a party seeks a court order for the distribution of funds which have been invested by the Court, the party shall again deliver a proposed order in Cleveland, to the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, to the Deputy-in-Charge, who will inspect the order for proper form and compliance with this Rule prior to signature by the Judge for whom the order is prepared.

The order for distribution shall include the name, address, and tax identification number of all individuals receiving any portion of the distribution, and wording which directs the Clerk to deduct a registry fee as a percentage of income earned on the investment not to exceed ten percent (10%). The order for distribution shall specify the amount of principal and interest to be disbursed to each party (see Appendix E).

Upon signature by the Judicial Officer, the party shall be responsible for serving a copy in Cleveland, on the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, the Deputy-in-Charge personally.

Rule 69.1 Preparation of Documents

Counsel shall prepare and file a completed form of summons, any warrants of seizure and monition, subpoenas to alleged bankrupts, certificates of judgment, writs of execution, and/or orders of sale. Counsel shall prepare all process in garnishment or other aid in execution and present same, together with the requisite written request for issuance, at the Office of the Clerk for signature and sealing. Upon request to the Clerk, subject to current availability, reasonable supplies of blank official forms of process shall be available to any attorney admitted to practice in this Court.

CHAPTER IX
SPECIAL PROCEEDINGS

Rule 72.1 Duties of United States Magistrate Judges

Each United States Magistrate Judge appointed by this Court is authorized to exercise all powers and perform all duties conferred expressly or by implication upon Magistrate Judges by, and in accordance with, procedures now or hereafter set forth in the United States Code, rules promulgated by the Supreme Court, the local rules of this Court, and the orders of this Court. Upon consent of the parties, all Magistrate Judges are specifically designated within the meaning of 28 U.S. C. § 636(c)(1) to conduct any and all proceedings in jury or non-jury civil matters, to order entry of judgment and to adjudicate any post-judgment matters.

Rule 72.2 Assignment and Referral of Matters to Magistrate Judges

(a) General. The method for assignment of duties to a Magistrate Judge and for the allocation of duties among the several Magistrate Judges of this Court shall be made in accordance with orders of the Court or by special designation of a District Judge.

(b) Automatic Reference. The Clerk shall refer all cases in the following categories to a Magistrate Judge for a Report and Recommendation as provided in Local Rule 72.1:

(1) Petitions for review of administrative decisions (including Social Security, Black Lung and Civil Service);

(2) Pro se petitions for habeas corpus filed under 28 U.S.C. § 2254, provided such petition has first been reviewed by the Court pursuant to 28 U.S.C. § 1915(d) and Rule 4 of the Rules Governing § 2254 Cases and a decision has been made to require a response to the petition.

(3) Administrative Cases under Local Rule 16.2(a).

Rule 72.3 Review and Appeal

(a) Appeal of Non-Dispositive Matters - 28 U.S.C. § 636(b)(1)(A). Any party may appeal from a Magistrate Judge's order determining a motion or matter under Local Rule 72.1(c) and (d) within ten (10) days after service of the Magistrate Judge's order. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. The District Judge to whom the case was assigned shall consider the appeal and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. The District Judge may also consider sua sponte any matter determined by a Magistrate Judge under this Rule.

(b) Review of Case-Dispositive Motions and Prisoner Litigation - 28 U.S.C. § 636(b)(1)(B). Any party may object to a Magistrate Judge's proposed findings, recommendations or report under Local Rule 72.1(e), (f), and (g) within ten (10) days after being served with a copy thereof, and failure to file timely objections within the ten (10) day period shall constitute a waiver of subsequent review, absent a showing of good cause for such failure. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations, or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof. The District Judge to whom the case was assigned shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge need conduct a new hearing only in such District Judge's discretion or where required by law, and may consider the record developed before the Magistrate Judge, making a determination on the basis of the record. The District Judge may also receive further evidence, recall witnesses or recommit the matter to the Magistrate Judge with instructions.

Rule 72.4 Appeals from Other Orders of a Magistrate Judge

Appeals from any other decisions and orders of a Magistrate Judge not provided for in these Rules shall be taken as provided by governing statute, rule, or decisional law.

Rule 73.1 Conduct of Trials and Disposition of Civil Cases by Magistrate Judges Upon Consent of the Parties - 28 U.S.C. § 636(c)

(a) General. Upon the consent of the parties, a Magistrate Judge may conduct any or all proceedings in any civil case which is filed in this Court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a Magistrate Judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions. (See Appendix F.)

(b) Recusal, Resignation or Death of Magistrate Judge. Where the parties have consented to the transfer of a civil case to a Magistrate Judge under section (a) above, if the Magistrate Judge thereafter recuses, resigns or dies, the case shall be returned to the District Judge. The Clerk shall immediately assign another Magistrate Judge by the random draw and notify the parties of such new assignment. Within ten (10) days after such notification by the Clerk, the parties shall indicate their consent, or lack thereof, to transferring the case to the newly-assigned Magistrate Judge under 28 U.S.C. § 636(c). If the parties consent, section (a) above shall control. If the parties do not consent to the transfer, the case shall remain with the District Judge.

Rule 73.2 Appeal from Judgments in Civil Cases Disposed of by Magistrate Judge on Consent of the Parties - 28 U.S.C. § 636(c)

Upon entry of judgment in any civil case disposed of by a Magistrate Judge on consent of the parties under authority of 28 U.S.C. § 636(c), an aggrieved party shall appeal directly to the United States Court of Appeals for this Circuit in the same manner as an appeal from any other judgment of this Court.

CHAPTER X
DISTRICT COURT AND OFFICE OF THE CLERK

Rule 77.1 Hours for Filing

The Court shall be in continuous session for transacting judicial business on all business days throughout the year.

The Office of the Clerk shall be open for filing from nine o'clock a.m. to four o'clock p.m., Monday through Friday, at the locations of court, which are: Cleveland, Akron, Youngstown, and Toledo.

Emergency filings before or after the normal business hours will be permitted. The attorney of record for any party needing to make emergency filings between five o'clock p.m. and eight o'clock a.m., on weekends or on holidays may telephone the Court's Security Office which will contact a deputy clerk on duty. The number to call is (216) 522-2150.

Rule 79.1 Withdrawal of Paper

No paper on file in this Court shall be temporarily withdrawn from the files for any purpose, unless by order of the Court, except for printing the Record on Appeal by a local printer. The Court may, in its discretion, prohibit any original papers from being taken from the files for the purpose of printing, and may require copies of such original papers be made for such purpose.

No paper shall be permanently withdrawn from the files except upon written order of the Court and the filing with the Clerk of (1) a duly certified copy of the paper so withdrawn and (2) a duly signed receipt of the party receiving the same. The party receiving such paper shall pay the fees for such certified copy and for the entry of the order.

Rule 80.1 Orders for Transcripts from Official Court Reporters

(a) All requests for transcripts from any proceeding held in the United States District Court for the Northern District of Ohio shall be in writing and addressed to the court reporter who took the proceeding, with a copy of such request filed with the Clerk of Court. (See Appendix G.)

(b) Transcripts provided for parties proceeding under the Criminal Justice Act and to parties granted leave to proceed in forma pauperis in habeas corpus proceedings are to be paid for from funds appropriated for this purpose. A CJA 24 form, available from the Clerk's Office, must be used to obtain these transcripts.

(c) A copy of a transcript shall not be represented as an official transcript of a Court proceeding unless it has been certified by a court reporter or electronic court reporter operator of the Northern District of Ohio.

(d) Rates charged for transcripts will be those charged by the Judicial Conference of the United States. The schedule of rates is posted in the Office of the Clerk.

CHAPTER XI
GENERAL PROVISIONS

Rule 83.1 Photography, Radio, and Television

(a) General Provisions. The taking of photographs in the courtroom or its environs, radio or television broadcasting, and the use of equipment incident to radio or television broadcasting from the courtroom or its environs, during the progress of and in connection with judicial proceedings, both civil and criminal, whether or not court is actually in session, including proceedings before a Magistrate Judge or a session of the Grand Jury, are prohibited.

(b) Definitions. The term "environs" as used herein is defined as including certain property of the United States in the Northern District of Ohio, to wit: the "United States Court House and Federal Office Building" in Akron, Ohio; the "United States Courts and Customs House" in Cleveland, Ohio; the "United States Court House and Post Office" in Youngstown, Ohio; and the "United States Court House and Customs House" in Toledo, Ohio. Included in this definition are the buildings and all driveways and entrances into and exits from the said buildings, as well as the offices of the Clerk of Court, Probation offices, Pretrial Services, and offices of the United States Marshal, and all corridors, offices, rooms and other areas within these buildings. Not included within the definition of "environs" are the sidewalks adjacent to said buildings and a "press room" to be selected and designated by the Chief Judge, when requested, subject further to the supervision of the Judges of this Court, and then only upon the consent of the person or persons to be interviewed or photographed.

(c) Recordings. This Rule shall not prohibit recordings by a court reporter or other Court-designated representative; provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, the Court and counsel.

(d) Proceedings Other Than Judicial Proceedings. Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission and under the supervision of the Court.

(e) Enforcement. The United States Marshal is charged with the responsibility of taking necessary steps to enforce this Rule.

Rule 83.2 Duties of Court Personnel

All courtroom and courthouse personnel, including but not limited to Marshals, Deputy Marshals, Court Clerks, Court Reporters, Probation Officers, Pretrial Service Officers, and other personnel, shall not disclose to any person, without authorization by the Court, information relating to a pending criminal case or matters pending before the Grand Jury if such information or matters are not a part of the public record of the Court.

Rule 83.3 Courtroom and Courthouse Decorum

(a) No loitering, sleeping, or disorderly conduct is permitted in any Court buildings.

(b) No food, drink, cards, placards, signs or banners are permitted in any courtroom or adjoining areas, except as permitted by the Court.

Rule 83.4 Security in the Courthouse

(a) The United States Marshal, the Federal Protective Service and any other federal security force are authorized to require all persons entering any United States District Court in the Northern District of Ohio to pass through an electronic metal detector before gaining access to the building or the corridors leading to the Judges' chambers. Whenever any person who activates the detector wishes to gain access to these areas, such person must submit to a reasonable, limited search of his or her person and property in order to determine the existence, if any, of explosive or dangerous weapons that might cause injury to persons or property.

(b) All packages, bags, parcels, and brief cases shall be submitted for magnetometer, x-ray, and/or manual inspection upon entry into any United States District Court in the Northern District of Ohio. Any person who refuses to allow such inspection shall be denied entrance.

(c) Except for the United States Marshal, the Marshal's deputies and designees, no one shall have an explosive, incendiary, deadly, or dangerous weapon on or about his or her person while inside any United States District Court in the Northern District of Ohio, unless such person is a federal law enforcement officer, or is a law officer of another jurisdiction who receives approval of the United States Marshal. This approval shall be accomplished by signing a register in the office of the United States Marshal on each day that the person enters the courthouse with a weapon. Such register will record the date, signature of the person carrying the weapon, destination in the courthouse, and a brief description of the weapon.

(d) The United States Marshal and any other federal security force authorized by law are directed to enforce this Rule and to take into custody any person violating its provisions. Such persons who commit any violation of this Rule while outside the confines of a courtroom or in a courtroom outside the presence of the Judge or Judges of such Court shall be brought before a Magistrate Judge without any unnecessary delay. Such persons who commit any violation of this Rule while within the confines of a courtroom in the presence of a Judge or Judges shall be brought before the Judge or Judges as directed without unnecessary delay.

Rule 83.5 Admission of Attorneys to Practice in the Northern District of Ohio

(a) Roll of Attorneys. The Bar of this United States District Court for the Northern District of Ohio consists of those admitted to practice before this Court who have taken the oath prescribed by the Rules in force when they were admitted or that prescribed by these Rules and who have signed the roll of attorneys of this district.

No person shall be permitted to practice in this Court or before any officer thereof as an attorney or to commence, conduct, prosecute, or defend any action, proceeding, or claim in which such person is not a party concerned, either by using or subscribing his or her own name or the name of any other person, unless he or she has been previously admitted to the Bar of this Court.

(b) Bar Admission. It shall be requisite to the admission of attorneys to practice in this Court that they shall have been admitted to practice in the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court shall be bound by the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of Ohio, so far as they are not inconsistent with federal law.

(c) Local Office Requirement. Unless otherwise ordered by the Court, it shall not be necessary for any attorney entitled to practice before the District Court or permitted to appear and participate in a case or proceeding to associate with or to designate an attorney with an office in this district upon whom notices, rulings, and communications may be served.

(d) Admission by Clerk. Each applicant shall file with the Clerk (1) a certificate from the presiding Judge or Clerk of the proper court evidencing the applicant's admission to practice there and that he or she is presently in good standing, (2) the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, which shall be endorsed by two members of the Bar of this Court who are not related to the applicant, and (3) evidence of attendance at a federal court seminar.

If the documents submitted by the applicant demonstrate that he or she possesses the necessary qualifications, the Clerk shall so notify or advise the applicant, and he or she may be admitted without appearing in Court by appearing at the Clerk's Office and signing the Roll of Attorneys. The applicant shall subscribe before any official authorized to administer the oath or affirmation set forth in this Rule.

(e) Admission Upon Motion to the Court. If the applicant so elects, rather than filing with the Clerk the certificate and statement required by subsection (d), he or she may

be admitted by the Court on oral motion by a member of the Bar, provided that it appears from the motion or the statement of the applicant to the Court that he or she has satisfied the requirements of admission.

(f) Oath or Affirmation. Each applicant shall subscribe or take the following oath or affirmation, viz:

> I, [Name] , do solemnly swear (or affirm) that as an attorney of this Court I will conduct myself uprightly, according to the law and the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of Ohio, so far as they are not inconsistent with Federal Law, and that I will support the Constitution and laws of the United States.

(g) Admission and Fees. All attorneys admitted to practice in this Court under this Rule shall pay to the Clerk the admission fee prescribed by the Judicial Conference of the United States and such other fees as may from time to time be required by General Order of this Court (such as a library fee).

(h) Permission to Participate in Particular Case. Any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion, be permitted to appear and participate in a particular case.

(i) Change of Address. All attorneys admitted to practice in this Court are required to submit a written notice of a change of address to the Clerk upon the change in address.

Rule 83.6 Appearance and Practice by Law Students

Under the supervision of an attorney licensed to practice before this Court, a student who (1) is enrolled in a school of law accredited by the American Bar Association or holding membership in the Association of American Law Schools, and (2) has completed one-half of the credit hours required for graduation may, with the consent of the trial judge, participate as though he or she were a duly-licensed attorney in causes pending before this Court, to the extent authorized by this Rule. Such student participation shall be limited to the following situations:

(a) In all cases, parties to the litigation shall have advised the Court that they agree to the student's participation and that full explanation has been made of the student's status.

(b) In all cases, the student shall receive no compensation, directly or indirectly, for participation, other than the award of academic credit by the student's law school. This Rule shall not preclude a person who is salaried by a nonprofit agency (e.g., Legal Aid Office) from engaging in a student practice pursuant to this Rule.

(c) In civil matters, a student may participate as requested by attorneys employed by or associated with a legal services program or law school clinical program in matters arising from such employment or association.

(d) In habeas corpus and post-conviction cases, a student may participate as requested by attorneys for petitioners; a student may participate on behalf of respondents as requested by respondent's counsel.

The term "supervision" as used in this Rule means the presence in Court during the student's participation of the attorney requesting his or her services, unless such attorney's absence is expressly authorized by the party whom he or she represents, the student, and the Judge.

The Judge before whom a student is participating may, at any time and with or without cause and for any reason, revoke the authorization established by this Rule.

Rule 83.7 Professional Conduct and Attorney Discipline

(a) Standards for Professional Conduct. Attorneys admitted to practice in this Court shall be bound by the ethical standards of the Code of Professional Responsibility adopted by the Supreme Court of the State of Ohio, so far as they are not inconsistent with federal law (see LR 83.5(b) and (f)).

(b) Failure to Comply.

(1) For misconduct defined in this Rule, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances warrant.

(2) Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

(c) Attorneys Specially Admitted. Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged professional misconduct of that attorney.

(d) Disciplinary Proceedings.

(1) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court come to the attention of a Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by this Rule, the Judge shall refer the matter to the Court's Committee on Complaints and Policy Compliance ("the Committee"), with notification to the Clerk of Court, for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as is appropriate.

(2) If the Committee concludes after investigation, review and findings that a formal disciplinary proceeding should not be initiated against the respondent-attorney, the Committee shall file with the Court a recommendation for disposition of the matter by dismissal, admonition, referral, or otherwise.

(3) To initiate formal disciplinary proceedings, the Committee shall issue by regular U.S. mail an order of this Court requiring the respondent-attorney to show cause as noticed why the attorney should not be disciplined.

(4) Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the matter shall be set for hearing before the Committee, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court who is a member of the Committee, that judge shall not participate in such hearing or in any action of this Court relative to said respondent-attorney.

(5) Counsel appointed pursuant to the authority set forth in section (f) of this Rule, *Discipline Imposed By Other Courts*, shall have the authority to investigate, prosecute before the Committee and otherwise assist the Committee in any matters involving a respondent-attorney.

(e) Attorneys Convicted of Crimes.

(1) Upon the filing with the Clerk of Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any other Court of record of a serious crime as hereinafter defined, the Chief Judge, on behalf of this Court, shall immediately enter an order of interim suspension of that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall be served upon the attorney by regular U.S. mail. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

(2) The term "serious crime" shall include, but not be limited to, any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, tax evasion, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

(3) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(4) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to ordering an interim suspension of that attorney, refer the matter to the Committee for the institution of a disciplinary proceeding on behalf of the Court. The sole issue to be determined shall be the extent of the final discipline to be imposed. A disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

(5) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the Court may refer the matter to the Committee for whatever action the Committee deems warranted, including the institution of a disciplinary proceeding.

(6) An attorney suspended under the provisions of this Rule will be reinstated upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed. However, the reinstatement will not terminate any disciplinary proceeding then pending against the attorney.

(f) Discipline Imposed By Other Courts.

(1) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of record, promptly inform the Clerk of this Court of such action. If the Committee becomes aware of any public discipline to which any attorney admitted to practice before this Court is subjected, the Committee shall inform the Clerk of this Court.

(2) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall issue by regular U.S. mail a notice directed to the attorney containing:

(A) a copy of the judgment or order from the other Court; and

(B) an order to show cause directing that the attorney inform this Court of any claim by the attorney that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the matter shall be set for hearing before the Committee.

(3) This Court may impose the identical discipline unless this Court finds that the imposition of the same discipline by this Court would result in grave injustice.

(4) In all other respects, a final adjudication in another Court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.

(5) This Court, acting through the Committee, may at any stage appoint counsel to prosecute the disciplinary proceedings.

(g) Disbarment on Consent or Resignation in Other Courts.

(1) Any attorney admitted to practice before this Court who is disbarred on consent or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending shall be stricken from the roll of attorneys admitted to practice before this Court upon the filing of a certified or exemplified copy of the judgment or order or upon notification by the attorney.

(2) It is the duty of any attorney admitted to practice before this Court who is disbarred on consent, or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending, to notify the Clerk of this Court of such disbarment.

(h) Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

(1) Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to the Clerk of this Court an affidavit stating that the attorney desires to consent to disbarment and that:

(A) the attorney's consent is freely and voluntarily given; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

(B) the attorney is aware that there is presently pending an investigation or proceeding involving allegations that grounds exist for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(C) the attorney acknowledges that the material facts alleged are true; and

(D) the attorney consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself or herself.

(2) Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

(i) Reinstatement.

(1) After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Clerk of Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court.

(2) Time of Application. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(3) Hearing on Application. Applications for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Clerk of Court. Upon receipt of the application, the Clerk shall refer the application to the Committee which shall schedule a hearing. At the hearing the attorney shall have the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest. If the disciplinary proceeding which led to the disbarment or suspension of the attorney was predicated upon the complaint of a Judge of this Court who is a member of the Committee, that Judge shall not participate in such hearing or in any action of this Court relative to said attorney.

(4) Duty of Counsel. In all proceedings upon an application for reinstatement, cross-examination of the witnesses of the attorney and the submission of evidence, if any, in opposition to the application shall be conducted by a member of the Committee, unless the Committee has appointed counsel in which case such cross-examination shall be conducted by that counsel.

(5) Deposit for Costs of Proceeding. Applications for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceedings.

(6) Conditions of Reinstatement. If the attorney is found unfit to resume practice in this Court, the application shall be dismissed. If the attorney is found fit to resume practice in this Court, the judgment shall reinstate him/her, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the attorney whose conduct led to the suspension or disbarment. In addition, if the attorney has been suspended for two years or more or disbarred, reinstatement is conditioned upon the attendance of the attorney at a Federal Court Practice Seminar. If the attorney has been suspended for five years or more or disbarred, reinstatement may be conditioned upon furnishing proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(7) Successive Applications. No application for reinstatement under this Rule shall be filed within one year following an adverse judgment upon an application for reinstatement filed by or on behalf of the same attorney.

(j) Appointment of Counsel. Whenever counsel is to be appointed pursuant to this Rule to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement application filed by a disciplined attorney, this Court or the Committee may appoint as counsel the disciplinary agency of the Supreme Court of Ohio or other state or local disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or if the Committee determines it more appropriate, the Committee may appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under this Rule, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

(k) Service. Service of orders, notices or any other papers shall be made by regular U.S. mail addressed to the respondent-attorney at the last known office address of the respondent-attorney.

(l) Public Record. The general order disbarring, suspending, reprimanding or subjecting an attorney to other disciplinary action or reinstating an attorney shall be a matter of public record. All other records pertaining to attorney disciplinary action(s), which are not already public records, shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(m) Jurisdiction. Nothing contained in this Rule shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

(n) Applicability. This Rule shall apply only to disciplinary actions initiated on or after August 10, 1998.

Rule 83.8 Judicial Misconduct and Disability

(a) 28 U.S.C. § 372(c) provides a way for any person to complain about a Judge who the person believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or "is unable to discharge all the duties of office by reason of mental or physical disability." It also permits the judicial councils of the circuits to adopt rules for the consideration of these complaints. The Judicial Council of the Sixth Circuit has adopted "Rules of the Judicial Council of the Sixth Circuit Governing Complaints of Judicial Misconduct or Disability" under the authority of 28 U.S.C. § 372(c). A copy of these rules is on file with the Office of the Clerk.

(b) Pursuant to the rules adopted by the Judicial Council of the Sixth Circuit, complaints shall be filed with the Circuit Executive for the Sixth Circuit Court of Appeals on a form that can be obtained from that office.

SUPPLEMENTAL LOCAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS

Supplemental Rule C.1 Publication

(a) The notice required by Rule C(4) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure shall be published at least once and shall contain the fact and date of the arrest, the title of the cause, the nature of the action, the amount demanded, the name of the Marshal, and the name and address of the attorney for the plaintiff. The notice shall also contain a statement that claimants must file their claims with the Clerk of Court within ten (10) days after the arrest or within such additional time as may be allowed by the Court, and must serve their answers within twenty (20) days after the filing of their claims. The notice shall also state that all interested persons should file claims and answers within the times so fixed; otherwise default will be noted and condemnation ordered.

(b) When the property remains in the custody of the Marshal, the cause will not be heard until after publication of notice of arrest is made in that cause or in some other pending cause in which the property is held in custody. No final judgment shall be entered ordering the condemnation and sale of the property, not perishable, arrested under process in rem unless publication of notice of arrest in that cause shall have been duly made.

Supplemental Rule C.2 Decree on Default, How Obtained In Rem

In any suits in rem where no attorney has appeared for any claimant or in personam where debts, credits, or effects have been attached and there has been no appearance, a final decree will not enter, unless proof is furnished of actual notice of the suit to an owner or agent of the property arrested or attached or to the master or person in charge of the vessel in custody, in addition to proof of publication of the notice of arrest, or of actual notice to the defendant or the defendant's agent, unless it appears to the Court that such actual notice is unnecessary. If actual notice cannot be given, such notice shall be given by publication or otherwise, as the Court may direct.

Supplemental Rule E.1 Property in Possession of Officer or Employee of the United States

(a) In proceedings in rem on behalf of the United States, when the property is in the custody of an officer or employee of the United States, the Clerk, at the instance of the United States Attorney, may omit the attachment clause in the monition.

(b) In such suits and also in other suits in rem, when the property is in the custody of an officer or employee of the United States under authority of any law of the United States, it shall be sufficient service of the monition and warrant, in such other suits in the first instance, to leave a copy thereof with said officer or employee of the United States with notice of attachment of the property therein described, and requiring such officer or employee to detain such property in custody until the further order of the Court; and in case the officer or employee is not found within the District, then to leave also such copy and notice with the custodian of the property within the District, with notice also, except in customs seizure cases, to the owner or the owner's agent, if found within the District, subject, however, to such further special order as the Court may make.

Supplemental Rule E.2 Summary Release from Arrest or Attachment

Where property is arrested or attached, any person claiming an interest in the property arrested or attached, may, upon a showing of any improper practice or a manifest want of equity on the part of the plaintiff, be entitled to an order requiring the plaintiff to show cause forthwith why the arrest or attachment should not be vacated or other relief granted consistent with these Rules. This Rule shall have no application to suits for seamen's wages when process is issued upon a certificate of sufficient cause filed pursuant to Title 46 U.S.C. §§ 603 and 604.

Supplemental Rule E.3 Security

Any party having an interest in the subject matter of the suit may, at any time on three (3) days' notice, move the Court on special cause shown for greater or better security. Any order made thereon may be enforced by attachment or otherwise.

Supplemental Rule E.4 Appraisement and Appraisers

Orders for the appraisement of property under arrest or attachment at the suit of a private party may be entered as of course by the Clerk, at the instance of any party interested or upon the consent of the attorneys for the respective parties. Only one appraiser is to be appointed, unless otherwise ordered; and, if the respective parties do not agree in writing upon the appraiser to be appointed, the Court shall forthwith name an appraiser.

Appraisers, before executing their trust, shall be sworn or affirmed to its faithful discharge before the Clerk or the Clerk's deputy and shall give three (3) days' notice of the time and place of making the appraisement, by notifying the attorneys in the cause and by affixing the notice in a conspicuous place, where the Marshal usually affixes notices, to the end that all persons concerned may be informed thereof. The appraisement, when made, shall be returned to the Clerk's Office.

Supplemental Rule E.5 Sale

(a) Unless otherwise ordered as provided by law, notice of sale of the property after condemnation in suits in rem shall be published daily for at least six (6) days before sale.

(b) No sale of the property shall be ordered by interlocutory judgment before the sum chargeable thereon is fixed by the Court, except by consent of the parties or by order of the Court.

Supplemental Rule E.6 Custody of Vessel

(a) Upon the seizure by the Marshal of a vessel by arrest or attachment in any suit in personam, in rem, or both, the Marshal shall appoint as keeper or custodian of the vessel so seized, the vessel's master or other officer upon such master's or other vessel officer's acceptance of the responsibilities and liabilities incidental to the appointment, unless the Marshal shall receive permission of the Court for the appointment of any other person.

(b) Upon proper motion of any party having an interest in the vessel so seized, and upon proof of responsibility satisfactory to the Court, the Court shall appoint at any time during the seizure a keeper or custodian as substitute for any keeper or custodian so appointed by the Marshal.

(c) Upon seizure of the vessel, the Marshal, keeper or custodian shall not impede the conduct of the loading and discharging of cargo or other operations normal to the vessel unless deemed necessary for the safe custody of the seized vessel.

(d) Upon proper motion of any party having an interest in the seized vessel, upon proof satisfactory to the Court of adequate insurance protection covering the seized vessel, and upon at least one (1) day's notice to the Marshal, keeper or custodian, the Court shall order the cancellation of any insurance placed upon the seized vessel on behalf of the Marshal, keeper or custodian, save only such insurance as may be necessary to protect against liability in such capacity, and subject to such provision as the Court may require for the continuing maintenance of adequate insurance protection.

(e) Upon proper motion of any party having an interest in the vessel, and upon the filing of a stipulation or other form of undertaking satisfactory to the Court guaranteeing the payment of any sums found legally payable to the plaintiff by judgment of the Court or by settlement, and upon at least one (1) day's notice to the plaintiff, the Court shall order the release of the vessel so seized subject to the further order of the Court.

Supplemental Rule E.7 Accounting by Marshal

Upon the return of any process of sale, the Marshal shall file with the Clerk an account of all property sold and pay over to the Clerk all monies received with a bill of the Marshal's charges. The Clerk shall tax the charges and pay them to the Marshal out of such monies.

Supplemental Rule E.8 Claims After Sale, How Limited

In proceedings in rem, after a sale of the property under a final decree, claims upon the proceeds of sale, except for seamen's wages, will not be admitted on behalf of lienors filing complaints or claims after the sale, to the prejudice of lienors under claims filed before the sale, but shall be limited to the remnants and surplus, unless for cause shown it shall otherwise be ordered.

Supplemental Rule F.1 Complaint Offering Surrender of Vessel

Whenever a complaint of liability offers a surrender of the vessel to a trustee and shows any prior paramount lien, lienors, or creditors, and the vessel is so surrendered, no final decree exempting from liability will be made until all such liens or claims as may be admitted or proved, prior to such final decree, to be superior to the liens of the claims limited shall be paid or secured independently of the property surrendered. The monition in cases of surrender shall cite all persons having any claim upon the vessel to appear on the return day or be defaulted, as in ordinary process in rem.

Supplemental Rule F.2 Complaint Seeking Appraisement

If, instead of a surrender of the vessel, an appraisement thereof is sought for the purpose of giving a stipulation for value, notice of the proceedings to appraise the vessel shall be given to such lienors and creditors as are stated in the complaint or known to the plaintiff, as the Court shall direct.